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DEPARTMENTS OF VETERANS AFFAIRS AND
HOUSING AND URBAN DEVELOPMENT, AND
INDEPENDENT AGENCIES APPROPRIATIONS
FOR 1999

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HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTH CONGRESS

SECOND SESSION

SUBCOMMITTEE ON VA, HUD, AND INDEPENDENT AGENCIES

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PART 7

ENVIRONMENTAL PROTECTION AGENCY

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DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND
INDEPENDENT AGENCIES, APPROPRIATIONS FOR 1999

Tuesday, March 10, 1998.

U.S. ENVIRONMENTAL PROTECTION AGENCY

WITNESSES

CAROL M. BROWNER, ADMINISTRATOR
FRED HANSEN, DEPUTY ADMINISTRATOR
SALLYANNE HARPER, ACTING CHIEF FINANCIAL OFFICER

Chairman's Opening Remarks

Mr. Lewis. Good morning, ladies and gentlemen.

This is the first of a two-day set of hearings on the fiscal year 1998 budget request of the Environmental Protection Agency. EPA's spending request totals \$7,795,275,000; an increase of just over \$435 million above the 1998 level.

The Agency's actual request for new appropriation total some \$7.14 billion, as their 1999 request includes an additional \$650 million for Superfund, which was appropriated in the fiscal year 1998 bill, but does not become available for obligation until fiscal year 1999.

I would add that in this regard, consistent with an agreement reached with between the committee and the Office of Management and Budget, these additional funds will not become available in 1999, unless the Superfund Program is reauthorized on or before May 15, 1998; just around the corner.

Testifying on behalf of EPA this morning will, again, be its very able Administrator, Carol M. Browner. Ms. Browner, we would like to welcome you back to what is, I believe, your sixth appearance before this subcommittee.

In that regard, I would like to note for the record that Ms. Browner has now served as Administrator for EPA longer than any other individual in over the 25-year history of the Agency. Such longevity which belies her appearance at any federal Agency, let alone at one as complicated and, at times, controversial as EPA, certainly speaks volumes about Ms. Browner's commitment to environmental concerns and her commitment to her country, as well as her capability.

Before calling on the Administrator, it is my pleasure to call upon my colleague and friend, Louis Stokes.

Opening Remarks by Mr. Stokes

Mr. Stokes. Thank you very much, Mr. Chairman.

Madam Administrator, I would like to join our Chairman in welcoming you and all of your colleagues here this morning. The work of your Agency is of critical importance to this nation.

It is always a pleasure to consider your work and your budget. Your goals of clean air, clean and safe water, safe food, preventing pollution, reducing risk in communities, as well as ensuring environmental justice are some of the most important programs of our government.

I am particularly interested in hearing about the progress that the Agency is making in the Superfund clean-up, brownfields, and the revolving funds exist for drinking water and clean water programs.

I look forward to your presentation. It is always a pleasure to welcome you before our subcommittee.

Thank you, Mr. Chairman.

Mr. Lewis. At the initial stages, I am going to take a little different tact. If my colleagues will bear with me, I may take a little longer than normal in my introductory questioning, but I think it is important.

Please introduce the two people who are with you.

Ms. Browner. Thank you for everything.

Mr. Lewis. Members come and go, but the rest of us will be here forever.

Ms. Browner. We have Fred Hansen our Deputy Administrator and Sallyanne Harper our Acting Chief Financial Officer whom we hope to have confirmed at any moment now.

Mr. Chairman, also joining me, as we have done in years past, are the Assistant Administrators for each of our program areas. In addition we have the Associate Administrator for the Office of Reinvention, the head of our Children's Office, and Mike McCabe representing our regional offices.

Mike is the Regional Administrator for Region Three. I think many of you know Joe Crapa, who has joined us as Associate Administrator for Congressional and Intergovernmental Relations.

PM Research

Mr. Lewis. Mr. Stokes, I appreciate your patience from time-to-time. So, I am appreciating that at this moment. I first want to begin by publicly thanking Administrator Browner, and Deputy Administrator Fred Hansen, Acting Assistant Administrator Henry Longest, and all other people on both sides

and outside of the government who had a hand in developing and implementing a very important issue facing us.

That is the Particulate Matter Research Program included in the 1998 bill. Shortly after passage of the legislation, EPA negotiated and signed a contract, ahead of our requested schedule, with the National Academy of Sciences to develop a consensus near term Particulate Matter Research Plan.

The NAS is well-underway with this project. In fact, I received word just last Friday that the NAS Committee on Research Priorities for Airborne Particulate Matter had unanimously approved its Draft Report No. 1, and sent it to the Academy's Report Review Committee and 12 peer reviewers.

Based on this announcement, they fully expected to submit their final draft on schedule around the end of March or early April. The process would then require EPA to integrate the NAS Plan with their original PM Research as proposed and adopted in the fiscal year 1998 bill.

I am aware that EPA has been actively involved in providing all necessary materials and assistance to the NAS. It is my understanding that you stand prepared to integrate the NAS Plan and push appropriate research funds out the door as quickly as is practical, once you receive those NAS documents.

As I have stated several times over the past few months, our purpose in developing this legislative effort was, and does not in any way diminish or contradict the fine PM-related research already being conducted by EPA's board staff.

Rather, we sought to provide the tools and resources to add to that research effort so that we could assure that the complete science possible was conducted prior to the development and implementation of any new PM regulatory scheme.

Such new regulatory requirements imposed on our states and local governments will undoubtedly pose significant financial concerns. I believe it is our responsibility to base those regulatory actions on the best and most complete science possible.

We obviously have a long way to go before this effort will bear fruit. There are numerous issues, including the timing of the next required PM review that may need to be discussed at a later date.

For now, however, I want to thank all of those people involved with this very important effort, particularly you, Ms. Browner, and your Deputy Administrator, Mr. Hansen. I particularly look forward to our continued work together to see this process through to its successful completion.

Ms. Browner. Mr. Chairman, if I might just also recognize the work of Frank Cushing in making this happen. This really is a testament to how the two branches of government can work together. He was invaluable in working with us and we really appreciate that.

Mr. Lewis. I appreciate that. I wanted to make those introductory comments and lay that foundation as we turn to the Administrator. I know that you have an opening statement.

As you know, we would prefer that you have that statement included in its entirety in the record. From there, if you would bring to us your priority concerns, in whatever form you would like, it is now my pleasure to recognize Ms. Browner.

Administrator Browner's Opening Remarks

Ms. Browner. Thank you, Mr. Chairman and Members of this subcommittee for this opportunity to appear before you today. I would ask that my statement in its entirety be inserted in the record.

Very briefly, I would like to call to this subcommittee's attention the budget priorities included in the President's 1999 budget request for the Environmental Protection Agency.

Before doing that, I would like to note for this subcommittee it is with this budget, for the first time ever, that we actually present the budget based on a set of goals. I think much of the discussion we will have today will be based on the way we have presented the budget previously.

We present it two ways this year; one based on goals and one based on traditional program allotments and undertakings. We are very committed to the work, looking at the goals, and the commitments we make to the American people in terms of protecting their environment, their health, and growing the economy.

For the first time ever, we present our budget in keeping with a set of goals. First and foremost in this budget is global warming. As the President has said many times, global warming is a critical challenge. It is, perhaps, the most serious environmental public health threat we face as a nation.

This budget reflects the President's determination that America will lead the world in meeting the challenge of global warming by reducing the pollutants that cause global warming and climate change. In doing, so we will continue to grow the economy.

New data shows that 1997 was the hottest year ever recorded. Nine of the hottest years on record have occurred since 1987. The vast majority of the world's scientists have warned us that we need to tackle the problem.

If we fail to address this problem, we will leave a legacy of climate change and environmental damage that will greatly burden future generations. Included in this budget is an increase for EPA in keeping with the President's commitment across the government.

This request is part of a \$6 billion program in tax incentives, research, and development that the President has proposed to encourage innovative technologies aimed at reducing greenhouse gases.

This budget also includes a new Clean Water program designed to help us continue the job of cleaning up the pollution in our rivers, lakes, and coastal waters. Several weeks ago, the President announced the Clean Water Action Plan designed to address today's greatest threats to our nation's waters coast-to-coast, including pollutant run-off from urban areas, farms, loss of wetlands, and the restoration of our waterways.

Mr. Chairman, I know this has been a question in years past. What is the cooperation between federal agencies on issues such as this? This plan demonstrates the very strong commitment to working across department and agency lines. We will be happy to provide details on that.

Secretary Glickman, joining the President as I did in

announcing this plan, pointed out that he may very well have been the first Secretary of Agriculture to ever appear at a Clean Water Act event and to commit Departmental resources.

Most of the budget increase that EPA seeks for this program would be passed on to the states to allow them to address the pollutant run-off challenges that they face. This budget also includes an \$8 million increase to address the unique vulnerabilities of children to environmental threats.

We are working there with the Department of HHS to establish six research centers for children's environmental health. The final area that I would point to is Superfund, the clean-up of toxic waste.

I know there will be many questions about this, particularly the \$650 million advanced appropriation. What I would like to say in summary is that this budget is designed to have us complete 900 clean-ups by the end of 2001. We are more than happy to provide all of the details.

I'd also like to address the issue that you raised, Mr. Chairman, about the fine particles. Included in this budget request are the lion's share of the dollars necessary to continue the research effort and purchase, install, and turn on the fine particle monitors without a state cost share, as we committed to do last year.

There are other important areas of the budget which we will be more than happy to address in the course of this hearing. In summary, I would say that this is a budget for a cleaner, safer, healthier environment for our children and their children to come.

It builds on our past successes. It builds on our efforts to change how we do this job to find the common sense cost effective solutions. We are pleased to be here today.

Thank you.

[The statement of Ms. Browner follows:]

[Pages 6 - 9--The official Committee record contains additional material here.]

ig letter: ten management problems

Mr. Lewis. Thank you very much, Ms. Browner.

On December 15, 1997, the House Majority Leader wrote a letter to the EPA Inspector General asking that the IG identify the ten most serious management problems confronting the Agency.

The Inspector General responded to this request. In their letter to the Majority Leader, the IG noted that, and I quote, ``If the areas of concern are not addressed in a timely manner, they could impact on the Agency's ability to accomplish its mission.''

While some of these ten are certainly less important than others, all ten represent serious management control weaknesses which serve to undermine the Agency's credibility; particularly as it relates to our faith that you are spending the taxpayers' money wisely and efficiently.

As reported by the IG, these are the ten most serious areas

of concern. There are problems with reliability of data that make it difficult, if not impossible, for EPA's managers to assess progress in carrying out its environmental mission. That is number one.

Number two, enforcement actions have been implemented inconsistently in the air, water, and hazard waste programs resulting in varying penalties and numbers of enforcement actions taken.

Next, EPA has not demonstrated that environmental data collection at Superfund hazardous waste sites are based upon systematic planning or use of scientific methodology, even though a preferred data quality objectives process has been developed.

Apparently, EPA has not required the use of this systematic process, nor has it developed criteria to implement an alternative process.

Although EPA has significantly increased the number of emissions factors for the sources of air pollution, these factors are used to estimate a source's air pollution emissions when more reliable data are not available. Many have still not been developed and others have become outdated or unreliable. The net result is greatly reduced effectiveness of both government and industrial efforts to control air pollution.

Further, the lack of adequate cost accounting capabilities and cost information adversely impacts nearly every facet of EPA's operations, from budget formulation and planning to program execution.

The IG goes on. EPA has not made optimal use of contract types that are results oriented and provide better cost control. Instead, the Agency continues to rely excessively on level of effort, cost reimbursable contracts that essentially buy labor hours, not necessarily results, and places the burden of cost control on the government.

It is suggested that numerous recent audits have identified information systems' security weaknesses caused by lack of security plans for EPA's general automated support systems and major applications. Such security weaknesses leave EPA vulnerable to unauthorized access, use, manipulation, and/or destruction of its information resources.

Further, assessments have identified a critical need to take corrective action to prevent systems failures due to the inability to handle the upcoming century change in the year 2000. That is a question we have asked of every agency so far during our hearing process.

Further, assistance agreements or grants constitute almost 50-percent of EPA's budget. Yet, regular audits confirm that many grant recipients have wasted taxpayers' dollars and EPA did not get what it paid for.

This situation has occurred because such recipients have not fulfilled their responsibilities under the terms of the grant and EPA has not fulfilled its obligation to adequately monitor such grant agreements and apply available sanctions when recipients did not perform.

The last comment of the IG suggests that despite the fact that 1990 was the final year that funding was authorized for the Wastewater Construction Grant Program, and despite the fact that the lack of progress and close-out of the program was

identified in 1993 as an Agency-level weakness, and despite the fact that in 1996 the close-out of the program was elevated to a material weakness in your Fiscal Year 1996 Integrity Act Report to the President and the Congress, your current plan, as I understand it, is to have the work ``substantially complete'' in fiscal year 2000.

In that regard, the IG has reported its belief that results provided to EPA's regional offices to close-out this program were sometimes used by the regions for other programs; something I could not even imagine occurring.

I suppose if the regions are aware of the quality of the Agency's cost accounting process, such irregular use of close-out funds would be more than possible.

Madam Administrator, I know that on a number of these issues, the Agency has agreed with the IG and has identified the problem as a management control weakness.

I also know that none of these issues are new issues. Many have been discussed in this forum in one fashion or another over the past several years.

The fact remains that these are serious issues which must be addressed. I would like to know specifically how and when you plan to respond to each and every one of them?

I would appreciate your general response at this point. I would also appreciate a specific and detailed response, if you would include it in the record.

[The detailed response follows:]

[Pages 12 - 23--The official Committee record contains additional material here.]

Ms. Browner. Certainly, Mr. Chairman, we will be more than happy to give you a detailed account of what we are doing in each area to address the issues raised by the Inspector General.

We welcome the work of the IG, in terms of helping us better manage the Agency. I think that, as you pointed out, these are areas where in many instances we have been working over the last several years to correct the concerns.

construction grant close-out

For example, in the close-out of the Construction Grants Program, we have, in concert with the IG, established a schedule. For the Members who may not be aware, this is where we go back and we audit cities on how they spent waste water money, in some instances dating back to 1966.

Many of you have called me over the years about this when your cities have been audited. Reasonable people can see things in slightly different ways. But we now have a schedule for completing that work.

In 1997, we had 729 projects from all fiscal years that we were still working on. In 1999, we will be down to 175. Again, these are not easy undertakings. There can be reasonable differences. We are committed to resolving this particular issue.

You also raised emission factor developments under the Clean Air Act. Included in the budget before you is a \$10 million request for funding for emission air factor development. We recognize that and we are here today asking for money.

year 2000 computer compliance

One issue that I want to briefly respond to here and, again, we will respond to all in writing, is the year 2000. I know this has been an issue of concern across the Congress, and appropriately.

We are quite pleased with our progress. I think Congressman Horn recently graded federal agencies on their progress. I think we received a ``B.'' We are working toward the ``B-plus.'' That was better than a lot of our colleagues.

We can give you a breakout on where we are. We have 61 critical systems; 40 of those are now compliant with the year 2000; 14 more will be compliant by September 30th. We have 7 remaining.

[The information follows:]

[Pages 25 - 26--The official Committee record contains additional material here.]

Ms. Browner. One of the remaining systems is very difficult and, while we are now on schedule, we are also talking to other federal agencies about perhaps contracting with them to take over our payroll system. Our payroll system is about 25-years-old.

It is probably one of the biggest challenges we face in terms of the year 2000.

Mr. Lewis. I appreciate that very brief and very general response. I must say the thrust of this and the reason I wanted to exercise the IG's questions was because usually the response when we ask the agency about ``X'' or ``Y,'' the response for doing ``X'' or ``Y'' is because it is ``good for the environment.''

I do not think there is anybody in this room that does not want to do what is good for the environment, including all of the Members at the dias, but making sure that in that mix we also are exercising ourselves in a way that really protects the interest of the people we want to serve; the communities, the constituents, and the taxpayer.

So, I raise these questions so that you will know that the Committee is very interested. We do want to pursue this matter. We will appreciate your responding as you suggested. Mr. Stokes.

superfund: reauthorization

Mr. Stokes. Thank you, Mr. Chairman.

Madam Administrator, the President's 1999 budget request for EPA totals \$7.8 billion, compared with about \$7.4 billion for the current fiscal year.

However, the \$7.8 billion figure includes the advanced appropriation for the Superfund Program of \$650 million, which was included in last year's act. That funding, however, was provided contingent upon reauthorization of the Superfund Program.

The funding lapses after May 15, 1998, if the program has not been reauthorized by that date. First, tell us what do you think of the probability that reauthorization legislation for the Superfund Program will be enacted within the next two months?

Ms. Browner. Congressman Stokes, we continue to believe that a comprehensive rewrite of the program, of the laws, is in the interest of the American people.

Last week alone, I think I probably spent more than 30 hours in hearings or in meetings. In one 48-hour period, I spent 20 hours in meetings with Mr. Boehlert and Mr. Borski in an effort to reach an agreement on legislation.

As of this time, there is obviously not an agreement. As I understand it, at 4:00 p.m.; this afternoon, Mr. Boehlert will move to mark-up a bill which the Administration will oppose without significant changes.

Having said that, we stand ready and willing to work with any Member to find agreement on legislation. I would also point out, as I have in years past, that the Superfund program of today, the day-to-day operation, is significantly different than the day-to-day operation of the program ten years ago.

I would encourage Congress, in considering this budget request, to consider those communities, and we can provide the list of sites where we are ready to do the final clean-up. Without the money we will not be able to clean up those sites.

It is just that simple at this point in time. A lot of good work has gone into advancing sites to the final phase. It now comes down to a question of money.

That is what the \$650 million that the Congress appropriated last year is designed to address, getting those sites done that are ready to go.

superfund: impact of failure to reauthorize

Mr. Stokes. Well, if we take the worst case scenario and assume that there is no reauthorization, tell us then what are your plans?

Ms. Browner. If there is no reauthorization by May 15th, as the language requires in terms of the 50/50, OMB will submit a budget amendment to see that money carried forward without reauthorization, because of our great concern for these communities and the sites that are ready to go to cleanup.

Mr. Lewis. It is a very important item. Within the House, pretty clear direction has come to us from on high that before we find ourselves essentially authorizing on the appropriations bill, which essentially is what you are talking about, we must have the approval of the authorizing committee of the House.

That is not always available to us. So, the question is if it is not authorized, and if appropriation without authorization is not allowed, what do you do?

Ms. Browner. Well, we would work very hard, in a bipartisan manner, to secure that support from the authorizing committees,

despite failure at reauthorization. At this time I do not want to speak for the authorizing committee.

I have spent a lot of time with the members of the authorizing committees. No one has said to me--although they may say they had intended to say to me--that it is their desire to appear before this Subcommittee and encourage you not to fund the program.

That is not something that has been said to me. We are still committed to reauthorization. We have spent a huge amount of time trying to get it. I testified 15 different times in the last two and a half years on Superfund, just Superfund, in an effort to get a bill.

As I said, last week in a 48-hour period, I spent 20 hours in meetings with Members in an effort to get a bill. So, we are trying to get the bill. I guess the question I would hope that we can all consider is, without a bill, what happens to those communities?

Is it fair to those communities, who may have waited 10, 12, 13 years when the money was accounted for in the balanced budget agreement, to ask them to wait another set of years?

superfund: dollars available

Mr. Stokes. Let me ask you this, Madam Administrator. I understand EPA hopes to have the Superfund Program financed at \$2.1 billion in 1999, partly to honor the commitment made at Kalamazoo in 1996 to have 900 sites cleaned up by the end of 2001.

If the Superfund Program is not reauthorized, the tax not reinstated, and \$650 million provided as an advanced appropriation in 1998 not available, what then happens to the program?

That is, specifically tell us how many sites will be delayed in their clean-ups. Will the balance of the money in the fund be adequate to finance the program?

Ms. Browner. If I might; there are two questions in there. Let me answer them separately. If I might start with the money available in the Fund.

Mr. Chairman, if you would bear with me. This is somewhat of a complicated answer, but I will do my best to simplify it. The 1998 appropriation from the Trust Fund, which is funded through the taxes, is \$1.250 billion.

An additional \$250 million comes from general revenue for a total of \$1.5 billion. If you subtract the \$1.5 billion from the Trust Fund balance at the beginning of the fiscal year, it leaves you with a balance in the Trust Fund of \$1.387.

Because that Trust Fund collects interest, because we are being reimbursed for expenditures that we made in prior years where there are now responsible parties, we collect money in the course of the year.

So, money goes into the Trust Fund, even though the tax is not being collected. Interest in 1998 will be \$217 million. Collections from responsible parties will be \$175 million which would give you a balance available for appropriation from the Trust Fund of \$1.783 billion.

Then if you add to that the 250 million general revenue appropriation proposal for FY99 that has been a part of the

history of this program, you would have a total at the beginning of fiscal year 1999 of \$2.033 billion.

We would again in 1999 collect interest. We would again have responsible parties making reimbursements. Interest would be \$157 million. Collections would be \$175 million which would take the fund up to a total of \$2.369 billion.

The appropriation we have asked for, when you add the \$650 in, would be a total of \$2.1 billion. So, there would be adequate funds, assuming that \$250 million general revenue funding that continues to be available as it has for many, many years now to honor the \$2.1 billion request.

In the year 2000, you have a problem because you only have available in the Trust Fund the \$276 million. Again, there will be some interest, \$94 million. There will be collections of \$175 million plus \$4 million in fees and penalties. With the general revenue appropriation of \$250 million, you would only have available in the year 2000, \$799 million for a request of something on the order of \$1.5 billion.

The \$650 million is a one-time request. So, the long and the short of this is that in the Trust Fund, with the general revenue appropriation that has been granted in years past, there are funds in fiscal year 1999 of \$2.369 billion adequate to cover the \$2.1 billion request.

I apologize, but it is a complicated account because interest and collections keep coming back into it as we continue to do what we are supposed to do, which is go out and get the responsible parties to reimburse us.

In terms of the sites, do you want me to run through those numbers quickly? Would that be helpful?

superfund: cleanup delays

Mr. Stokes. It would be helpful if you would tell us how many sites would be delayed in their clean-up? I think that is important.

Ms. Browner. Without the additional \$650 million, there would be 51 sites that we would delay in fiscal year 1999 and 120 sites would not be started. There are some things that we are finishing up. Then there are others that we start to keep the process moving.

So, failure to fund affects two categories. One is the completions that we can achieve, and the other is the starts. Both are crucial to the success of the program and to the communities where the sites are located. So, 51 completions and 120 start-ups that would be affected.

pulmonary hemorrhage

Mr. Stokes. I have a number of questions on the budget, but before I yield so the Chairman can recognize some of the other Members who are here, let me ask you this. This is sort of switching gauges a little bit.

As you know, there is an outbreak of pulmonary hemorrhage in infants in this cluster in my Congressional district. There have been 38 cases diagnosed in the Cleveland area, including 14 deaths and 122 cases nationwide in the past five years.

Do we know why a third of the cases of pulmonary hemorrhage

in infants have occurred in the Cleveland area and why half of the total number of cases are clustered around the Great Lakes area?

Ms. Browner. We are looking at this issue. We are working with the Centers for Disease Control and NIEHS. We all want to understand what is happening here. At this point in time, we do not have a clear answer, but we are continuing to look at the issue.

Mr. Stokes. There has been some evidence or at least some diagnosis that the disease is initiated by an airborne mold found in older housing that have bodies of standing water in the foundation or the basement. It also appears to be an indoor air pollution problem.

The issue crosses the interests and jurisdictions of the Department of Health and Human Services, HUD, and EPA. Can you tell me whether or not there are any collaborative efforts going on between those agencies relative to finding out the causes of this problem?

Ms. Browner. Yes, we are working with HHS. I am not sure that we are working with HUD and that is an interesting point that you raised. We will contact them and see what would be appropriate in terms of their involvement.

The issue of indoor air is an area of growing concern for us when we look at the human health consequences, particularly among children.

This may well be associated with indoor air. I do not think we know conclusively yet. We are certainly doing everything we can with these other agencies to see if we can understand the problem.

Mr. Stokes. Thank you, Madam Administrator.

Thank you, Mr. Chairman.

Mr. Lewis. Thank you, Mr. Stokes.

Going back briefly to your earlier question, as the Administrator outlined those zeros and the interest earned from the Superfund Trust Fund, et cetera, she was not suggesting she did not need the \$650 million, I do not believe.

Ms. Browner. No.

Mr. Stokes. No. I am sure she was not.

Ms. Browner. I was saying there was enough money there to pay for it.

Mr. Lewis. Mr. Mollohan.

clean water action plan (cwap)

Mr. Mollohan. Thank you, Mr. Chairman.

Madam Administrator, welcome to the hearing. I join my colleagues in expressing appreciation for your coming up.

Would you talk with us in a little more detail about the President's Clean Water Action Plan and what it means in and of itself, or what it might mean, with regard to any change in direction for EPA and how it moves forward to implement our water quality standards?

Ms. Browner. The Clean Water Action Plan was developed under the leadership of the White House with the Department of Agriculture and EPA as the lead agencies, but also including Interior, NOAA, and the Army Corps of Engineers.

It is designed to address the most pressing water problems

as we understand them today. That includes the issue of polluted run-off. Some of you have experienced problems, particularly acute problems in your state, associated with polluted run-off.

Others of you continue to have areas where fishing and swimming is not allowed, in large measure, because of polluted run-off.

The mechanism that we believe is the most appropriate way to address these concerns is to use a watershed-by-watershed, region-by-region, state-by-state approach, recognizing what the most difficult problems are within a watershed, within a basin. This involves developing a basin-specific, a watershed-specific plan, working across Federal agencies to provide additional resources to the states.

The EPA budget request is \$145 million for this new program of which \$120 million would go to the states and tribes in the form of expanded section 319 non-point source program Grants and programs to develop these plans and to put in place the mechanisms to solve the problem.

Mr. Mollohan. There are a lot of watersheds in the country.

Ms. Browner. There are over 2,000 watersheds in the Continental United States. What we believe, and I think what many of the states would agree with, is that not every watershed faces the same challenges.

Some are more at risk than others. Some are more polluted than others. Part of this program is to focus on those with the greatest problems, those at the greatest risk, and to not simply have a one size fits all answer to the problem.

We have done a lot with the one size fits all answer: command and control the end of the pipe. It has given us a tremendous sense of progress in this country, but it will not be adequate in and of itself to address the problems of polluted run-offs.

So, we are going to have to work basin-by-basin. Some, quite frankly, will not rise to the occasion and others will.

cwap: grants to states

Mr. Mollohan. So, how is it going to work? The grant program, does this go through the states?

Ms. Browner. Yes.

Mr. Mollohan. Do the states handle the grant money?

Ms. Browner. The states will make applications, yes.

Mr. Mollohan. The states will make applications to the Federal government?

Ms. Browner. Yes. We are using existing grant authority.

Mr. Mollohan. It is not a state allocation program.

Ms. Browner. Some of it is allocated and some of it is an application process.

Mr. Mollohan. So, every state will get an allocation amount.

Ms. Browner. Yes.

Mr. Mollohan. How much of it is allocation and how much of it is application?

Ms. Browner. This is Bob Perciasepe from the Office of Water. He can give you the breakout.

Mr. Perciasepe. The \$20 million increase for the operating

grants or the so-called 106 Grants, which are authorized under 106 of the Clean Water Act, is an allocation formula that goes to the states for their normal ongoing operations.

Mr. Mollohan. That is an administrative grant to the states.

Mr. Perciasepe. That is correct. It is to run their programs, and the increased work that they would have to do to do these basin-by-basin, watershed-by-watershed analyses that the Administrator is talking about.

The increase of \$100 million to the 319 Grant, which is the Non-Point Source Grant would be doubling the amount that is in there. The existing \$100 million would continue to be allocated based on a formula that we have worked on with the states.

Every state would continue to get what they have been getting. We want to target the additional \$100 million, along with the agriculture money, to the highest priority watersheds on a state-by-state basis.

So, every state would get more of that, but it would be targeted to the priority watersheds, as the Administrator has described.

Mr. Mollohan. Then each watershed would apply to the state to receive grants to, what; to study their watershed situation?

Ms. Browner. It could be for planning or it could be for implementation. It would depend on the watershed. I think you were saying this. So, let me just make sure.

We would look to the states to prioritize. So, the state would say, this watershed is the most at risk. So, we are going to increase funding for this watershed. There might be some that you would not fund.

Mr. Mollohan. So, it would be a state led initiative in that sense.

nps grants: state match

Ms. Browner. In terms of prioritization.

Mr. Mollohan. And you would all be overlooking it. Is there a matching requirement to the current \$100 million?

Ms. Browner. Yes. On the 319 Non-Point Source Grants, there is a 40-percent match.

Mr. Mollohan. I am talking about the additional money that is going to go to the grant program under this initiative.

Ms. Browner. There is, but let me just be clear about what is considered a match. It can include in-kind work that people are doing in the States.

Mr. Mollohan. You are very flexible about that.

Ms. Browner. Yes. Thank you.

Mr. Mollohan. I mean, I take it that is what you were saying.

Ms. Browner. Yes. The State match is not required dollars.

Mr. Mollohan. You are projecting this to be a \$3 billion program over five years. Am I understanding that correctly?

Ms. Browner. No. It is a \$2.3 billion program with all of the federal agencies over five years.

nps: abandoned mine reclamation fund

Mr. Mollohan. You know, we have a lot of Non-Point Source

problems in West Virginia. This money, I mean, this money goes to studying it. You have got to get on to correcting it. I do not think you will ever have enough money to do that.

I would like for you to. I would like for us to draw down on that. We have this Abandoned Mine Reclamation Fund that is out there. You are familiar with that; right?

Ms. Browner. Right. That is not an EPA fund, but yes, I am familiar with it.

Mr. Mollohan. No, it is not. I am just going to ask you a little bit about that. There is about \$1.6 billion in that Abandoned Mine Lands Fund which is collected. Did you know that?

Ms. Browner. I did not realize it had that much money in it.

Mr. Lewis. How much is it?

Mr. Mollohan. It is \$1.6 billion, Mr. Chairman.

That is money collected from coal production that was dedicated to clean-up. The budgeteers are keeping it locked up in order to make our deficit look better.

Ms. Browner. I am not agreeing or disagreeing with that.

Mr. Mollohan. I am going to ask you though. I mean that is really a big part of your responsibilities which is to get resources to help clean this up.

The technical issues are not the hurdles. It is getting the money that is the hurdles. Over \$250 million a year is generated by this fund, but it is not spent in nearly that amount.

I just advise you of this and encourage you. We are going to be trying to shake this money loose. To help us do that, we are trying to get OMB and the Administration. If we are really concerned about cleaning up these areas, this money is there.

It is for this. It is being used for budget purposes to make the deficit look better instead of for the purposes of cleaning up the environment. So, we will just call upon you to assist in that. Do you think that is something you can do?

Ms. Browner. We will discuss this with OMB. Obviously, in some parts of the country, abandoned mines can contribute to polluted run-off problems. I think you raise a valid point here.

Mr. Mollohan. It can. In all coal mine producing areas, it does. I mean, it is the number one problem really.

Thank you, Mr. Chairman.

Mr. Lewis. Thank you. Ms. Meek.

florida alternative water sources

Ms. Meek. Thank you, Mr. Chairman. Welcome, Ms. Browner, Mr. Hansen. Sallyanne Harper, we are happy to see you again.

My concern right now is the importance of alternative water sources. I am from Florida. We do need some type of alternative source development of water in Florida, either reclaiming the water that we are already using, or in terms of some way to irrigate the large agricultural lands we have there.

I know Administrator Browner, you and the Chairman, and Mr. Stokes have over the years supported this. My question now is do you agree that we would continue to try to restore this effort of reclaiming this water and certainly adding more water

to that to try to protect as an alternative source of water in Florida?

What is your stand at this point on that?

Ms. Browner. I have long believed, that the reuse of treated waste water--sometimes referred to as brownwater or reclaimed water--is extremely important.

Pinniellas County, for example, was really at the forefront of that effort at Marco Island. The golf courses have been irrigated for 20 or 30 years now with reclaimed water.

We have sought to be helpful across the country with states and communities in making use of this reclaimed water because we think it is so beneficial to sensible management of our water resources and, more broadly, our water supply.

Florida has a program, at least they did when I was there, of encouraging, for example, golf courses across the state to take this water as a way of diminishing the amount of water----

Ms. Meek. That is still in progress.

Ms. Browner. Right. They were removing more water from the Aquifer that was being recharged. EPA has provided some funding in various parts of the state for these efforts through grants programs.

Ms. Meek. I guess I should ask your Regional Administrator, a little bit later, where this money is going at this point in terms of what areas of Florida.

Ms. Browner. We could provide you with a list. Why do we not do that for the record, if that would be okay.

Ms. Meek. That would be fine.

[The list follows:]

[Pages 35 - 37--The official Committee record contains additional material here.]

water programs at epa

Ms. Meek. Another interest I have is, in your budget this year, you want to spend \$2.8 billion on clean water programs in 1999.

Ms. Browner. Yes.

Ms. Meek. That is almost \$100 million more than you requested for this same program in fiscal year 1998. How do you plan to spend that money?

Ms. Browner. The total water resources include our ongoing commitment to the states for wastewater treatment facilities and upgrades to those facilities, the new program that you have funded for drinking water facilities, and the President's Clean Water Action Plan.

Those are the three big pieces of that program. The Clean Water Action Plan is focusing on polluted run-off as opposed to the waste water discharges that the historical clean water program sought to address. So, it is three programs, broadly speaking.

everglades restoration

Ms. Meek. My last question has to do with the Everglades. I

cannot let you go without asking about the Everglades. What are your plans in terms of the continued restoration of the Everglades?

Ms. Browner. Well, we are very proud of the progress that has been made. The Administration, across a handful of federal agencies, seeks funding again this year for those efforts.

One important issue that we are focused on today is having the Army Corps of Engineers Study done in a timely manner.

Another issue is the acquisition of what is commonly referred to as the Talismen Property. We entered into an agreement with the owners of that property, St. Joe Paper Company and we have an option to buy it out-right.

We have recently received appraisals on all of the parcels. As we have said, and as the Vice President said in making the announcement, we continue to be interested in trades with the farming entities that would give us the land we need for restoration and give the people of South Florida the water quality that they need for a healthy existence, and allow farming where appropriate.

Those discussions should begin shortly. We just got the appraisals that we need for those discussions.

Ms. Meek. Thank you, Mr. Chairman for this round. That is it.

Mr. Lewis. Thank you, Ms. Meek. Mr. Price.

research triangle park (rtp) construction status

Mr. Price. Thank you, Mr. Chairman.

I would like to add my welcome to Administrator Browner and your colleagues. We appreciate this chance to review your activities and plans. Of particular importance to North Carolina and to the national research effort, of course, has been the beginning of the construction of the new consolidated EPA research facility in Research Triangle Park, North Carolina.

The new campus will allow EPA to fill in the knowledge gaps that currently exist in the field of environmental research and to ensure that regulation is based on sound science.

I am proud to say I was present, along with the Administrator, when the first shovels of dirt were thrown on that beautiful October day of last year. Mr. Chairman, there were some very kind words for you at that point.

I was happy to praise the work that you, Mr. Stokes, and our subcommittee did to authorize the entire building as originally conceived. So, we do thank you for your support.

We look forward to working with you this year to obtain the final \$72 million that is needed to complete the funding for this project.

Mr. Lewis. I thought he was leading up to something else.

Mr. Price. I knew that would catch you off-guard.

Ms. Browner, could you give us an update on how the construction is proceeding? I am particularly interested in how the Agency is proceeding with the additional portions that were authorized in last year's bill: the High Bay Test Area, the computer center, and the child care facility.

Ms. Browner. We are moving forward. We are absolutely committed to honoring the Congress' direction, if you will, to

include the High Bay Building, the computer center, and child care center in the main facility.

The initial work on construction is 8-percent complete now. We will start the High Bay Building at the beginning of fiscal year 1999. So, we believe that we are on track as we were directed to be by the Congress, in terms of the overall scope of the project.

Mr. Chairman, if I might just say, it really is a great thing we are doing down there. For the first time, EPA is going to have a state-of-the-art science facility in North Carolina where there are many other important efforts underway in terms of environmental sciences, including Duke University, and others.

We really do appreciate the support of this committee. I think this is something, quite frankly, that was long overdue. Finally, it is happening. The hole is in the ground. Construction has started. We really appreciate your help.

Mr. Lewis. We thought it might work at Palo Alto, but it did not quite make it.

Ms. Browner. We would be happy to have a second one.

bay city supercomputer move: cost savings

Mr. Price. We are certainly eager to work with you in moving this project forward. We are looking forward to moving out of 13 rented facilities at last count, I think, and into this consolidated laboratory.

We are grateful for all the help that has brought us to this point. Let me ask a related question about the Agency's super computing resources because this is related to the construction of the new computer center in RTP.

It is my understanding that the Agency has been considering for some time consolidating its current super computing resources in an attempt to gain efficiency and save money.

OMB has sent circulars regarding consolidation. Madam Administrator, your own Inspector General indicated that savings could be realized by closing down the Bay City facility and consolidating these operations in RTP.

We are talking about the next five years, to say nothing of the out years' savings. The savings over the next five years of immediately moving the current computer from Bay City to RTP would be over \$2 million.

If you waited for the new National Computer Center to be completed at RTP, there would still be savings, but the amount of savings over the next five years would drop to something under \$500,000.

Now, do those numbers sound right to you? In any case, how is the effort to consolidate proceeding and what is the time line for a decision on this matter?

Ms. Browner. As you well know, and as you have reported, we have been engaged in a comprehensive analysis of whether or not to relocate that facility. We are awaiting some additional information before making a final determination. It is not an easy decision.

You are correct that based on what we know today, there does appear to be some cost savings. We believe there is some additional information that may be made available to us. We are

trying to get that as quickly as possible.

Mr. Price. Any idea when the decision could be finalized?

Ms. Browner. We hope sooner rather than later. As I have said, we are awaiting some information. I do not know if we have a date yet for when we will receive that information. Let me try and get that for you.

Mr. Price. I would be happy to have that fuller accounting placed in the record. I do think we need that. I stress, I am not now talking about the out years. The out year savings are considerable from this kind of consolidation.

[The 5-year savings information follows:]

Bay City: Timeline, Cost Savings

EPA has completed the analysis to determine the location of the Agency's Supercomputer, currently housed in Bay City, MI. The study, conducted by the US Army Corps of Engineers, shows that consolidation of the Supercomputer with EPA's National Computing Center was the most cost-efficient option, saving the Agency \$2.4 million over five years, or about \$800,000 per year after the initial move costs are borne. Additionally, there would be substantial savings in the outyears.

On February 5, 1998, EPA briefed the Michigan Congressional delegation about the study findings. On March 13, 1998 Senator Levin and Congressman Barcia raised questions about the report. EPA is now preparing its response. We anticipate making the decision on the location of the Supercomputer no later than early summer in order to prevent having GSA extend the current lease beyond the December 31, 1998 completion date.

Mr. Price. What we are talking about is the savings over the next five years. Making the move immediately would achieve savings in the \$2 million range. I know there has been some discussion about possibly waiting until this new computer center is constructed in RTP.

There would be some savings if the move takes place then, but the savings would actually be less than would be achieved by moving now and then having a further move when the center is ready to occupy.

Ms. Browner. Based on the information we have now, we would agree with the numbers that you have articulated. There is no disagreement with what you have said.

It is simply that one of your colleagues has made us aware that there may be additional information which they are supposed to get to us. Once we receive the information we can complete the analysis.

Mr. Price. Well, I would think these are not just numbers. These are, of course, genuine dollar savings that we are talking about. It also reflects increased efficiency and effectiveness of those computer operations.

Thank you, Mr. Chairman.

Mr. Lewis. Thank you, Mr. Price. Mr. Hobson. Mr. Hobson.

danis-clarko landfill

Mr. Hobson. Thank you; welcome.

Last year, we discussed the Danis Clarko Landfill to be

sited in Tremont City, Ohio, in my Congressional District. As you may remember, the Ohio EPA has granted the Danis Company a variance from the state law allowing this landfill to be sited over an Aquifer.

First of all, I want to thank you and your agency for meeting with my constituent and for Region Five taking a look at this. It had not turned out the way, so far, that I wanted it to turn out or the people in the community would like for it to turn out, but the Ohio Environmental Review and Appeals Commission recently concluded several weeks of hearings on the Danis Landfill.

We are anxiously awaiting the decision of the Commission. This is still a contentious issue in my District. I still have grave concerns about the unnecessary risk of siting a landfill over an Aquifer using the variance technique when other sites exist in the area.

I just wanted to remind you of my concerns and hope that the Agency continues to monitor this; not just for my District, but for other states and areas where people may be using variances over an Aquifer.

If they are wrong, and the science is not really definitive in these areas, we have done something to the next generation in an area that is going to be very difficult to clean-up. So, I want to thank you for the help from your staff on that.

Ms. Browner. We will continue to monitor the situation.

visual anti-tampering vehicle emissions test

Mr. Hobson. I hope the review board comes out all right.

I want to ask you another, more contentious, question. I understand that the U.S. EPA recently gave preliminary approval to the State of New Hampshire to run a visual anti-tampering vehicle emissions test instead of the Enhanced Auto Emissions Test that was mandated for the state under the Clean Air Act.

Why was New Hampshire, a state with a more serious air quality problem than Ohio permitted to use the visual test, when your Agency urged Ohio to eliminate the same type of test because it was supposedly ineffective?

Ms. Browner. When we make decisions about state efforts, we look at their plan as a whole; whether it be Ohio or New Hampshire.

In the case of New Hampshire, in terms of the steps they are taking within the state to reduce their pollution they have, for example, looked to a coal-fired utility for NOX reductions, which we were able to certify.

In the case of their other pollution problems, a large measure of those are transported. They are not generated from within the state.

Mr. Hobson. Let me ask you this question. I understand that. If you use the words ineffective for the test, is this an ineffective test?

Ms. Browner. No. We believe it is an effective test.

Mr. Hobson. You believe it is an effective test.

Ms. Browner. Yes. As you all have encouraged us and we have sought over the last several years, we look at the whole package that the state is presenting and not at simply one component.

If we thought a test that a state recommended or sought to have approval on was ineffective, we would not approve that portion. In this case, we believe that test is effective. That test, when taken with their plan as a whole, gives them the level of reductions they need.

Mr. Hobson. All I will ask you to do is look at the wording used with Ohio and see if it is in their overall plan or the wording was used that it was an ineffective test and maybe somebody needs to change the language.

I think their impression is that it was not told to them as a part of the overall plan, but that the test per se was ineffective. Now, maybe it was ineffective in achieving the results that you wanted to achieve overall.

I am not sure about that. But I think the test, what they are concerned about is that the test was declared to be ineffective.

Ms. Browner. The Ohio test.

Mr. Hobson. Well, the Ohio Visual Anti-Tampering type of, it is the same type of test that they are using in New Hampshire. So, I would like for you to look at that.

Ms. Browner. Okay, certainly.

Mr. Hobson. They are saying, hey, you know, we would like to do this too. I still get a lot of complaints about going in and having your car plugged in and standing. Even though it is not always as bad as everybody says, still the perception is out there. When your wife has a problem and your staff has a problem, it is like, you know, it is a problem.

Ms. Browner. If we could provide, Congressman Hobson, an explanation for the record on what the differences are between the Ohio and New Hampshire test, and why one might have been determined to be effective and the other ineffective.

[The explanation on emissions testing follows:]

[Pages 43 - 44--The official Committee record contains additional material here.]

Mr. Hobson. I think they feel slighted.

Ms. Browner. In Ohio?

Mr. Hobson. In Ohio.

Ms. Browner. Something tells me this is not the only reason.

NOX Emission Reduction: Alternative Proposal

Mr. Hobson. Yes, I know. I know.

On another area, has the EPA reviewed the alternative NOX emissions reduction proposal developed by the Alliance for Constructive Air Policy?

Is not this proposal more in line with the recommendations of the OTAG because it creates a mechanism for further sub-regional modeling, while initial reductions are being implemented and targets additional reductions to demonstrated air quality needs?

Ms. Browner. I believe we have received that as a part of the comment. We have just completed a public comment period on

the proposed or what is commonly referred to as the proposed OTAG SIP call.

That is actually not its official name, but that will suffice for right now. I believe those analyses are a part of some of the comments that we received.

We will be fully reviewing all of the comments we receive before making the decision. The final SIP call would not be until this fall. So, in finalizing the SIP call, we have to review the comments.

Animal Feeding Operations: Regulatory Oversight

Mr. Hobson. I have a somewhat rural/urban district. A flag just went up in the rural area, as you might imagine. I understand that the EPA plans to increase regulatory oversight of animal feeding operations.

The National Association of State Department of Agriculture on March 3rd gave their support for state programs that include flexibility, sound science, and economic feasibility.

However, according to the Food and Agriculture Policy Research Institute, a consortium of seven land grant institutions, the proposed regulations, are not based on sound science or on economic feasibility.

What is the scientific and economic evidence used to support the proposed strategic plan? Secondly, I have got farmers coming up to me now saying, you know, am I going to have to have a permit for the manure on my property.

Is that the next step? Is that where we are going? These are not big feeding operations. I think the alarm bell has gone off. Do you want to respond to that a little bit?

Ms. Browner. This perhaps is an issue concerning other Members also. The question I think you pose is to the draft strategy which EPA released ten days ago on animal feeding operations.

In that strategy, we lay out the concerns in terms of the large number of these facilities and the volume of waste that can be generated at these facilities. Less than 25-percent of the largest CAFOs, or combined animal feeding operations, actually have some kind of environmental permit at this time.

In this strategy, we laid out a plan to work with all affected parties. For example, I met via satellite last week with the Council of Pork Producers, and with any number of producers, to look at how best to structure a program.

One of the issues that we need to discuss with all of the affected parties is the issue you raise of permits. This is actually turning out to be a very complex issue because while the animals may be owned by company-x, who sells them in the grocery store to you and me, the operation is owned by the farmer.

So, who would actually carry a permit, if a permit became a part of the solution? This is probably going to be the case in a number of instances. It is something that we are talking to all of the stakeholders about.

We have not made any final decisions in terms of how the program would actually be managed on a day-to-day basis. We are working very closely with the farming community, with the states, and with other interested parties.

The initial focus would be on the large operations: 1,000 head of cows or more; 2,500 head of hogs or more; and 30,000 chickens or more. They generate a lot of waste.

Mr. Hobson. I know they do.

Ms. Browner. A lot. Someone once told me, and I think this is accurate, that a dairy cow produces 80 pounds of manure a day.

Mr. Hobson. No, I do not think so.

Ms. Browner. Something on the order of that.

Mr. Hobson. I think four chickens equal a human being.

Ms. Browner. If you think about the efforts that we have engaged in to deal with human waste, and waste water treatment facilities, some of these facilities generate the amount of waste that is equivalent to a small city.

Mr. Hobson. I do not object to looking at this because we have had some problems with some large poultry operations within my state. I am not objecting.

I think the manner in which some of this is done, we need to recognize that we are after these. My District happens to be becoming an area where there are some large hog operations coming in.

We have already had some and there are more. At one time, we had a large feeder operation for cattle. I think the thing is that we need to make sure that the Agency indicates where it is going and it is not all of a sudden you have got every little farmer, family farm operation, saying, do I have to get another permit? You guys are already messing me up enough on a lot of other stuff.

They feel they already have enough regulations on them. So, I think you need to explain dramatically the level of the operation that you are after.

I do not necessarily disagree with some of these large operations because they do dramatically change the environment in the area in which they are operating; not that they are not good business people, but they need to figure out how to operate within the rules.

So, I am not objecting. We need to be sensitive to this other side. I just wanted to mention that to you.

Ms. Browner. As the first step, we have put out a draft strategy. It is not even a proposed rule or regulation. We are taking public comment on that strategy.

Mr. Hobson. I have already gotten some.

Ms. Browner. Good. That is what we need

Mr. Hobson. You are going to get a lot because there is a lot of fear out there of where this is going. I think if you address it in the right direction, then you will eliminate a lot of it. So, that is why I am raising the question to you today.

Thank you very much.

information systems: security

Mr. Lewis. Thank you, Mr. Hobson.

Ms. Administrator, one of the ten areas I mentioned earlier which EPA has itself identified as a management control weakness is information systems security. The whole area of information and management generally, and information security

specifically is one that I believe needs deliberate and immediate attention by Congress and many federal agencies, particularly EPA.

As we all know, EPA and other government agencies are more and more using information-age technologies to instantaneously collect, organize, and globally disseminate massive amounts of U.S. product and production facility information.

Previously, this information was paper filed in different jurisdictional offices and made accessible primarily for the benefit of government regulatory personnel.

While there are, of course, considerable benefits in providing a means for the general public to access certain information relative to our environmental laws, there are also considerable risk, including increased loss of competitiveness, increased risk of economic espionage, and increased risk of terrorism.

Over the past two years, the President's Commission on Critical Information Protection highlighted cyber and fiscal threats in the so-called Information Age. Congress recognized the threats posed by a startling rise in economic espionage and the inadequacy of federal law.

Thus passed, in the 104th Congress, the Economic Espionage Act of 1996. Unfortunately, neither Congress nor the Executive Branch have grappled with what I believe is the seed bed that nurtures various threats; open source information.

All foreign government and industry competitive intelligence techniques begin with open source information. Likewise, does the majority of international terrorism.

Even as economic espionage and cyber terrorism have moved to the public forefront, the U.S. Government has not brought the explosion of electronic open source information initiatives from regulatory agencies to public dialogue.

Product and production facilities regulatory agencies were not part of the PCCIP work. Government information initiatives are, for now, exempt from security under the Economic Espionage Act.

Meanwhile, EPA is proposing to instantaneously collect and globally publish, through the Internet, new data points, including a variety of materials accounting information.

Such information, along with product and facility permitting data, will reveal material balances, heat rates, catalysts, economic break points, inventories, and process efficiencies for 66,000 U.S. production facilities.

Moreover, and perhaps more to the point, EPA is now close to making a final decision on its information system for disseminating its Risk Management Program Rule for such facilities pursuant to section 112(r) of the Clean Air Act Amendments of 1990.

It is my understanding that your current proposal will, among other things, essentially place on the Internet, for all the world to see and have access to, worst case scenarios for all of these facilities, even though the Clean Air Act did not in any way require that the Internet be used for this purpose.

According to AEGIS Research, a contractor hired by EPA to analyze the terrorism risk of RMP information, the potential terrorism may be increased or decreased by influencing the following four factors.

One, exposure of the source; do the terrorists know that the information exists and where? Two, ease of access; how easily can a terrorist get the information? Three utility; what is the value of the information to the terrorist? Four, degree of anonymity; does the method of gathering the information allow the terrorist to remain anonymous?

Internet access places information greatly at the extreme positive end for three of these four factors: exposure to the source, ease of access, and degree of anonymity.

The fourth factor, utility of data base, relies on two further factors: the content of the data base and the ease of searching and sorting the data to uncover the specific pieces of information.

The RMP information in fact contains considerable data that would be valuable to a terrorist, including the chemicals used and quantities distance to end points, the residential population, and the public receptors, such as nearby schools and hospitals.

Once a site is identified, a potential terrorist may then access facility layout from aerial photos available at a local county office or, in some cases, the Internet itself, and thereby determine the ingress and egress routes, chemical locations, and physical security arrangements.

Based on all of these factors, EPA's contractor determined that uncontrolled access to RMP via the Internet would increase the risk of terrorism seven-fold from amateur, non-local terrorists.

Further, the contractor prepared a few limited recommendations that showed how EPA might reduce the risk, suggesting that a thorough study of data management alternatives, including controlled search on the Internet, could result in a solution that would both minimize risk to acceptable levels, and meet the public information objectives.

It is my understanding that EPA has not yet undertaken such a project. I really do not want to dwell that extensively, but it is a very important to say and, at least, a potentially critical subject.

Madam Administrator, I have a number of specific questions regarding these issues of economic espionage, and terrorism, many of which I will submit to you for answer later. At this time, however, I think it is important to first address the most fundamental of questions in this regard. Why in the world would EPA propose any such information access via the Internet if there is even a hint of economic espionage or terrorist problem?

information systems: security

Ms. Browner. First of all, Mr. Chairman, we have not made a final decision. We have been engaged in a very extensive process about how to make information available, what is appropriate, and what would not be appropriate.

We have looked to an outside advisory committee, a FACA, Federal Advisory Committee, organized under the Federal Advisory Committee Act. They have had several meetings now.

Nine out of ten of those committee members have recommended that we post some of this information on the Internet with

restrictions or speed bumps.

We are analyzing those speed bumps. We have also worked very closely with the President's Commission on Critical Infrastructure Protection. We have met with the FBI. We have met with DOD.

We understand and take very seriously the concerns you Oraise. In trying to strike the balance between public access and security, we will look towards how to structure it so that highly sensitive information would not be available through the query.

One proposal, for example, is that the query, and Internet query would be limited to only 15 pre-selected data elements, not including a set of sensitive data elements. We would exclude those from the Internet.

We would restrict the query to a sub-set of approximately 1,000 of these plans, not all of the plans. We would welcome any input from this committee as to other speed bumps that we should consider in making such a program available.

The flip side of this is that much of this information, while not on the Internet, is publicly available. You can go to a variety of locations in your local community and collect the information.

Much of it is available through a FOIA, a Freedom of Information Act Request. So, we are trying to strike the appropriate balance between public access and security. We would welcome any input on this matter.

Mr. Lewis. Ms. Browner, I gather from your response that you see that there is a potential threat or danger or difficult circumstance here. I am frankly not red hot for speed bumps. In fact, I would take them out of the Capitol garages because it really is nuts.

There are other ways of controlling things. One of the things I had mentioned here is that while there is nothing in the law at all that suggest that you ought to put this stuff on the Internet, the problem with your just initial kind of question response is that this information is publicly available, yes. You can go to the Library of Congress and get lots of information. The Internet is available readily in Baghdad.

Ms. Browner. We do not disagree that there a difference between the Internet and the Library of Congress.

Mr. Lewis. The point, again, is there are people sitting and looking at this kind of information. Imagine flows. I personally think that the terrorism threat, which is probably one of our greatest challenges for the next 25 years or so, is as much domestic as otherwise. It does concern me that Baghdad and otherwise are sitting there and scratching, I suppose, their heads.

Ms. Browner. We have had conversations about this with the FBI and the Department of Defense. Again, if there are any recommendations, we would really welcome them.

Mr. Lewis. I am really, really interested in steps that EPA is taking to ensure that increased public access will not increase the risk of terrorism. This is a discussion that we all need to have in open forum and otherwise. Mr. Stokes.

Mr. Stokes. Thank you, Mr. Chairman.

Madam Administrator, this January a major report entitled The Environment Protection System In Transition was published by the Enterprise for the Environment Project of the Center for Strategic and International Studies in cooperation with the National Academy of Public Administration and the Keystone Center.

In fact, Mr. Hansen was on the Steering Committee and was also a participant. I have looked at the report and seen the list of participants. You have a very distinguished group of participants here.

I would like to ask Mr. Hansen his impressions of the E4E Enterprise for the Environment Effort and what new information or prospectus he thinks this report brings to the environmental debate?

Mr. Hansen. Thank you, Mr. Chairman and Mr. Stokes.

The principal issues that I think are brought forward by the Enterprise for the Environment Effort has been first and foremost a fundamental recognition of how much progress has been made under the current system and that we should not retreat from that progress in any regard.

Number two, the steps required to move forward and continue to make the improvements that are necessary for the environmental systems are ones that should be taken incrementally. They should be taken on a step-by-step basis.

The report--I had little to do with this, although I am very proud of it--complemented the EPA's different steps to reinvent itself, to find new ways, as the Administrator has set out in the Common Sense Initiative, Project XL, and others, to solve our environmental problems in a more cost-effective, common sense way.

I would be happy to answer any additional questions, but those are the general impressions of the E4E recommendation, essentially saying that we need to do more of what we have already charted the course to do.

Mr. Stokes. I notice that one of the report findings says fragmented Congressional oversight of EPA and the complex relationship between EPA and other levels of government have hindered the coordination, integration, and rational application of environmental laws.

First, do you agree with that observation?

Ms. Browner. He can answer that.

Mr. Stokes. Go for it. Do you agree with that observation? Does the Administration have any proposal to address it?

Mr. Hansen. Mr. Chairman and Mr. Stokes, those are issues in terms of Congressional organization; an issue that you and this body are in the sole position to address.

Clearly, from the standpoint of the additional comment about the broader coordination among Federal Executive Branch Agencies, we agree. As the Administrator testified just a few moments ago in relation to the work on the Clean Water Initiative, the coordination is existing between us and the Department of Agriculture, along with the Department of Transportation, are indications that this Administration's commitment to build those connections among all of the Federal agencies addressing common problems.

goal-based budgeting

Mr. Stokes. The report also recommends, Mr. Hansen, that the Federal government undertake a well-funded, multi-agency, multi-year initiative to improve the quality, collection, management, and accessibility of environmental information.

Can you indicate to us to what extent EPA agrees with this recommendation? What is included in the 1999 budget request towards this objective?

Ms. Browner. We do agree, particularly in light of the GPRA, Government Performance and Results Act, where each of the departments and agencies is directed to present their budget based on goals.

If you articulate a set of environmental and public health goals for the country as we have sought to do, then information collection will be particularly important for measuring progress towards achieving those goals.

environmental monitoring for public access and community tracking (EMPACT)

If you say you are going to have so many watershed plans, you have to go out and collect the information to know that you have so many watershed plans. We have included in our budget throughout the agency a total of \$35 million for information collection efforts, broadly speaking.

It would probably be best captured under our EMPACT Program, Environmental Monitoring for Public Access and Community Tracking. That looks broadly at air and waterways.

Certainly information is extremely important to this goal-based budgeting effort and toward monitoring progress of the states, the agencies, communities, and industry. We are very committed to it.

food quality protection act (FQPA)

Mr. Stokes. Madam Administrator, Congress passed the Food Quality Protection Act in 1996, modernizing pesticide regulations by mandating that all pesticides meet a tough new safety standard that not only protects adults, but also infants and children who may be more vulnerable to the toxic affects of these chemicals.

It is my understanding that EPA is currently implementing those new health provisions. Tell us what pesticides EPA selected to reassess under the act.

Ms. Browner. We are required under the new Food Safety Act to complete a review of existing chemical intolerances. The final year I is 2006. We do it in thirds essentially. We are working through the reassessment of 9,700 tolerances within ten years.

The law also directs us to do reviews based on what are referred to as common mechanisms, to look at categories of products that use a common mechanism to be effective. We are currently looking at how best to do that; to focus on that common mechanism as required under the statute.

This is a large undertaking and we are the first to admit

it. We are on track as of this time to honor the requirements of the statute. It will require, and I should be very clear about this, a tremendous amount of stakeholder involvement.

We need the participation of the Department of Agriculture, which is working closely with us. We will need the participation of State Agriculture Commissions. We will need the participation of farmers. We will need the participation of manufacturers.

This is going to take everybody coming together. One place we have already made some important progress is just understanding what the exposures are in terms of the diet of our children today, as compared to 10, 15, 20 years ago?

Children's diets are an extremely important piece of information to undertaking this effort.

FQPA and SDWA Amendments: Bipartisan Support

Mr. Stokes. In the last days of the 104th Congress in 1996, two substantial environmental laws were enacted: The Food Quality Protection Act and The Safe Drinking Water Act Amendments.

Both of these measures had strong bipartisan support. I am sure it is no coincidence that both measures also have integral public health aspects. At the risk of over-simplification, it sometimes seems the most successful environmental bills are those that transcend politics and achieve broad support based on generally recognized threats to public health.

Why do you think these measures were successful? Conversely, why do you think others, such as Superfund reauthorization did not seem to be able to get out of the partisan category?

Ms. Browner. I would say that in the case of both, drinking water and food safety, there was bipartisan recognition. There was broad stakeholder recognition that they were outdated laws which needed to be modernized.

Food safety, in some instances, parts of it had not been changed in over 25 years. It reflected a knowledge of science that had been surpassed. We know a lot more today.

In the case of drinking water, there was a recognition that the rewrite in 1986 responding to the concerns at the time was no longer adequate to the concerns of today. So, first was the bipartisan recognition.

I would also say that we were extremely fortunate to have a number of governors, mayors, environmental organizations, and Members of Congress. It was a bipartisan effort to craft responsible pieces of legislation.

That is the way to do this. It is not an either or. It is not an us versus them. It is everyone sitting at the table to do just that. As I said with respect to Superfund, we were, I feel, making progress in the bipartisan conversations of last week.

Unfortunately, a mark-up was scheduled for today. It was Mr. Boehlert's view that he could not move that mark-up. So, those conversations have ceased. But if we are going to get there on Superfund, it is going to be in the exact same way we got there on drinking water and food safety.

It is going to be a group of people at the table working

through individual issues and then stepping back and looking at the program and the legislation in its entirety to determine whether it provides the level of protection that we all think are important.

It is not an easy thing to do, but it can be done, as you have said.

lead-based paint

Mr. Stokes. Sure. One other question and then I will yield back to the Chair. Ms. Browner, your statement indicates that protecting children's health is a top Administration priority.

Ms. Browner. Yes.

Mr. Stokes. That the 1999 budget includes an \$8 million or 33-percent increase.

Ms. Browner. Yes.

Mr. Stokes. I understand one facet of the increased effort is to target and prevent childhood lead exposure using funds in both the Environmental Programs and Management, and the State and Tribal Assistance Grants Account.

As you probably know, reducing lead levels in children has long been one of my priorities and concerns. Can you just elaborate a little bit more on this aspect of the initiative indicating the levels of funding and how they will be used?

Ms. Browner. Yes, Mr. Stokes. As you are well-aware, we still have a million children in this country with elevated lead levels in their blood. There is absolutely no reason why any child today should experience an elevated lead level.

We have a number of programs designed to address this problem. We are working very closely, for example, with the Department of Housing and Urban Development, looking at their housing stock.

We have some areas in the country where 80-percent of the low income housing stock has elevated levels of lead, contamination, or lead dust in them. We are continuing to work with parents so they understand the steps that they can take to prevent their children from being exposed to lead.

Most recently, our effort has focused on a cooperative agreement that we achieved with the realtors to notify purchasers where information is available with respect to lead hazards in a home or an apartment being sold or rented.

These efforts ensure that the parent can be an active participant in addressing those problems. It will require an important public education effort, because many times, unfortunately, we have seen the problem made worse because of a lack of knowledge on the part of the parent or the care provider.

We have all heard the stories of the parents who bought a house and then proceeded to sand the lead paint and essentially poison their children over the course of the next several years while they thought they were upgrading their house.

Mr. Stokes. Thank you very much.

Thank you, Mr. Chairman.

Mr. Lewis. Thank you, Mr. Stokes. Mr. DeLay.

global warming

Mr. DeLay. Thank you, Mr. Chairman.

I apologize to the Committee for coming and going, particularly today of all days. I like being present for Ms. Browner's testimony.

Tuesdays are leadership days. We are in all kinds of leadership meetings all day long. So, I will be coming and going, Mr. Chairman. It is good to see you again, Ms. Browner.

I want to direct my questioning, again, as is always my concern, to common sense regulations and good science, particularly good science. I have always had great concern that policies are being made on political reasons rather than good science.

Global warming is one of those things that bothers me greatly. I understand that the EPA is moving more and more towards priority setting in its activities. Just what importance would you place on global warming as compared to, say, toxic waste, or children's issues, or pesticides?

Ms. Browner. I would say, and as I said in my opening statement, global warming or climate change is one of the greatest environmental and public health challenges we face as a nation.

Mr. DeLay. More important than challenges we face with toxic waste or pesticides?

Ms. Browner. I think that it is important to understand that in some communities the immediate issue of a toxic waste site may be the most pressing problem.

For a family with a child who has experienced lead poisoning, that may be the most pressing problem. We have to maintain our efforts across an array of problems. When we step back and look at it from a national perspective, one of the greatest challenges is climate change.

Mr. DeLay. So, I guess what you are saying is climate change is more important.

Ms. Browner. I did not say that.

Mr. DeLay. Well, you said what people in local communities think, but what does EPA think? What does the Administrator at EPA think?

Ms. Browner. Part of our responsibility is to people in local communities. It is also to look broadly at the challenges and to disperse the resources that Congress makes available to us to honor the laws that Congress passes; to be responsive to a set of issues.

Congress, in authorizing the Clean Water Act, the Clean Air Act, Superfund, the Food Quality Protection Act, and the Safe Drinking Water Act, has given us a list of authorities to address a list of problems.

We make use of all of those. Climate change, we believe, is an area where we must increase our activities, given the magnitude of the problem. We do not suggest, nor does our budget suggest, that it comes at the expense of safe food, of toxic waste clean-up, of safe drinking water, of clean air.

Now, there are some opportunities to work with the climate change issues to receive not just long-term benefits to prevent problems, but also to receive immediate benefits. For example, more energy efficiency not only helps us address the climate change problem, it gives you air quality benefits today that are important to people in communities across the country.

PRIORITY-SETTING

Mr. DeLay. I do not know what all that means, but I come back to the point that I understood that the EPA is setting priorities.

Ms. Browner. Yes.

Mr. DeLay. If you are setting priorities, in your priorities, which is the highest priority? Is it climate change or pesticides or toxic waste?

Ms. Browner. We have 13 major laws that Congress has directed us to implement.

Mr. DeLay. I am aware of those laws, but which is the most important?

Ms. Browner. We would not pick one over the other.

Mr. DeLay. So, you are not setting priorities.

Ms. Browner. We are setting priorities within what Congress has told us to do. You have given us 13 laws to implement. You have told us to act responsibly within each of those statutes and we are doing that.

Mr. DeLay. Well then, what does it mean, setting priorities?

Ms. Browner. It means, for example, in the Clean Water Act, looking at ways to establish goals and measure progress. One example would be to look at the number of combined sewer overflows; to evaluate how many of those could be corrected within a certain time; what resources would be required.

Another example would be to look at the issue of lead levels in children. To set a goal of reducing the number of children who experience elevated lead levels over a period of x-number of years; to design a program to do that. That is what goals and prioritizing means to us.

Mr. DeLay. With each of the 13 authorities given to you by Congress, you are setting priorities within each of those. Of the 13, which is more hazardous to the United States or to the globe? You are setting priorities within the 13 statutes.

Ms. Browner. It is a combination. It is working within the individual statutes and what Congress has told us to do. Many of those statutes include time frames within which we are to act; whether it be to set regulations, to implement programs, to achieve production reductions.

Similarly, we look across the broad lay of the land, if you will, and through the budget, for example, by requesting resources as we do for climate change to address problems that may fall across an array of statutes.

KYOTO TREATY

Mr. DeLay. Well, let me switch to something else. Maybe I can just get you to answer yes or no. Under Secretary of State, Stuart Eizenstat, recently testified before the Senate that no new authority is needed to implement the Administration's plan to address global warming, except for the Emissions Trading Program.

He then stated that there is no Administration intention to implement without ratification, either back door or anything else. Do you agree with both of these statements?

Ms. Browner. I am not familiar with the statements in their entirety. If I understand the thrust of them, yes, I agree. I am more than happy to look at the statements in their entirety.

Mr. DeLay. Well then, is EPA doing anything to implement through regulatory programs or whatever?

Ms. Browner. We are doing exactly what we have been doing for the last several years which is working with the business community and partnership to find the cost effective reductions, the energy efficiencies.

For example, the Green Lights Program, Energy Star Programs. This budget request does in fact include an increase for those programs. Those programs are designed both to have immediate benefit.

They do result in reductions of greenhouse gasses and frequently in cost savings to the businesses that participate in the partnership with us.

Mr. DeLay. Do you feel that they implement the Kyoto Treaty?

Ms. Browner. They will achieve greenhouse gas reductions. There is no secret about that. That has been our effort for the last five years to work on voluntary partnerships with industry. That is what is maintained in this budget. I do not see that as a back door to Kyoto, no.

Mr. DeLay. Okay. So, what you are saying is you are not doing anything to implement Kyoto.

Ms. Browner. Kyoto sets out very specific requirements, as you are well-aware. This budget request would allow us to expand our partnerships with the private sector to reduce greenhouse gasses. It is not a back door to Kyoto, no.

Mr. DeLay. So, you are saying, no, you are not implementing Kyoto.

Ms. Browner. The treaty, no. We are reducing greenhouse gasses. A 48 million ton reduction would be achieved with funding of this budget request.

Mr. DeLay. I understand that. I want to be very specific about implementing a treaty without a ratification.

Ms. Browner. Senate ratification.

Mr. DeLay. So, would you unequivocally pledge to this committee that for as long as you are Administrator the EPA will not directly or indirectly propose or seek Administration authority to propose any legislation, rules, or regulations that place limits on any domestic carbon dioxide emissions before the Senate ratified the Kyoto Protocol?

Again, I would just like a simple, direct yes or no to answer this question.

Ms. Browner. We have requirements under the Clean Air Act, as passed by Congress.

We are committed to continuing those efforts. None of them specifically speak to carbon dioxide. In terms of whether or not I would, as Administrator, propose legislation to the Congress, I am part of an Administration.

I will work under the President's direction as a part of that Administration. It is up to the President to determine what he may or may not recommend to Congress, not me. I do not make legislative proposals to this body.

Mr. DeLay. Well, I understand that. A legislative proposal is one thing. What I am talking about is making proposals,

rules, regulations, promulgating rules and regulations, actually that would implement the Kyoto Protocol before the Senate ratified the protocol.

Ms. Browner. Congressman DeLay, the President as well as Mr. Talbot and Mr. Eizenstat have laid out what they will do vis-a-vis the treaty. Obviously, we honor that.

I just do not want anyone to think we have misled anybody here. You do have a budget request that is also in keeping with what the President has said. We will continue to form voluntary partnerships with the business community, with those leaders in the business community who are interested in doing what they can in a cost-effective, common sense way to reduce greenhouse gasses.

We will continue that. That has been ongoing. It, in some ways, pre-dates this Administration. Mr. Reilley was engaged in this. We have sought to expand those very successful business partnerships. We will continue to do that. We ask this committee for money to do that.

Mr. DeLay. I guess what I am hearing is that the President might at some point in time, with or without your approval, try to implement the Kyoto Protocol.

Ms. Browner. The President has been very----

Mr. DeLay. Why would you pledge not to implement the protocol until the Senate ratified it?

Ms. Browner. The President has been very clear and has his representatives on that issue. So, nothing in that has changed.

I just do not want you to say that you were not aware that included in EPA and other agencies and departments' budget request was money for the voluntary business partnerships that do result in greenhouse gas reductions. That is all I am saying. It is just that simple.

Nothing in our commitment, vis-a-vis the Senate and ratification, has changed, nor has anything changed in our commitment made many years ago that continued from prior administrations to work in partnership with the business community. You can do both. They are not mutually exclusive.

Mr. DeLay. Well, Ms. Browner, the Vice President in his book, *Earth in the Balance*, particularly on page 325, refers to the fact that automobiles emit greenhouse gasses. It calls the internal combustion engine a ``moral threat to the security of every nation that is more deadly than any military enemy we are ever again likely to confront.''

President Clinton said, ``many previous threats pose clear and present danger. Global warming is far more subtle, warning us not with roaring tanks or burning rivers, but with invisible gasses, slow changes in our surroundings, increasingly severe climatic disruptions that thank God have not yet hit home for most Americans. But make no mistake, the problem is real and if we do not change our course now, the consequences sooner or later will be destructive for America and for the world.''

Well, if America's present course really is so ``destructive,' ' if global warming really is a mortal threat deadlier than any likely future military adversary, then why would you not be willing to bend the rules a bit and let the political chips fall where they may and implement the Kyoto Protocol, in advance of ratification of the Senate?

Ms. Browner. The President has given his word and we will

honor that word. It is just that simple.

Mr. DeLay. Okay. Well, could not a case be made that it would be morally irresponsible to let constitutional scruples stand in the way of saving the world from a climate catastrophe?

Ms. Browner. We can debate the Constitution if you would like. I am sure we will find examples on all sides.

Mr. DeLay. I think you see a different Constitution than I do.

Ms. Browner. I do not think so. You seem not to be persuaded by that case.

Mr. DeLay. Why? Is saving the Constitution more important than saving the planet or is it because our course is not really so destructive after all?

Ms. Browner. If you are questioning my commitment to the Constitution----

Mr. DeLay. I did not say anything about that. I am just trying to establish a clear answer from you once and for all about where you are coming from and where you are headed.

Ms. Browner. I have been very clear in my response, with all due respect.

Mr. DeLay. Well, with all due respect, it is hard to understand your responses.

Ms. Browner. Let me try again.

One, I support the Constitution.

Two, the President has been clear in his statements to the Senate about the treaty and ratification of the treaty. The Administration continues to stand by those.

Three, the President has been equally clear that it is important to continue our partnerships with the business community to find the cost effective, common sense ways to achieve greenhouse gas reductions and we are doing that; nothing more or less.

For example, you raised the issue of cars. This Administration has had a tremendously successful relationship with the automobile industry.

Just several weeks ago, the Vice President joined me and the Big Three, as well as the foreign manufacturers in an announcement of a tailpipe emissions reduction which is 70-percent cleaner.

That is good for every single person in this country who cares about the quality of the air they breathe. Similarly, we are working through the partnership for a New Generation of Vehicles, which is a partnership with industry.

Mr. DeLay. Ms. Browner, I am not talking about all of that. I am talking about the Kyoto Protocol and whether you are going to implement it.

For an agency that does not have legal authority to implement the Kyoto Protocol, whether you call it implementation or not, the following strikes me as a series of actions whose funding is in serious jeopardy.

Page 15 of the EPA's First Strategic Plan required by the Government Performance and Results Act states as EPA Goal No. 6, ``the U.S. will lead other nations in successful, multi-lateral efforts to reduce significant risks to human health and eco-systems from climate change.''

In the discussion of Goal No. 6, your plan states, ``U.S.

greenhouse gas emissions will be reduced to levels consistent with international commitments agreed upon under the Frame Work Convention on Climate Change, building on initial efforts under the Climate Change Action Plan.'

Now, is that not implementation?

KYOTO TREATY RATIFICATION

Ms. Browner. That assumes ratification of the treaty.

Mr. DeLay. Does it say anywhere in your strategic plan ``assuming ratification of the treaty?''

Ms. Browner. That is inherent. You cannot act or implement the treaty outside of ratification. That is what the President has said. There is nothing in this that disagrees with that; nothing.

Mr. DeLay. It is your request for money to accomplish this for next year.

Ms. Browner. Our request for funding is to build our partnerships in the Green Lights Program, in the Energy Star Program to work, for example, on TVs that use less energy, on VCRs that use less energy.

It is to work with the industrial sector to achieve a more efficient use of energy; to double the rate of energy efficiency improvements; to work with the transportation sector on a Partnership for a New Generation of Vehicles.

These are activities that pre-date the Kyoto Agreement. These are activities that, in many instances, pre-date this Administration. These are activities that the business community welcomes. I would hope that we would see bipartisan support.

Mr. DeLay. Why would you need so much money for these voluntary programs, if you are not trying to implement Kyoto?

Ms. Browner. We work in partnership with the business community which is something you have certainly counseled us many times to do.

Mr. DeLay. But your stated goal is to implement the international agreement.

Ms. Browner. The question, as I understand it, is whether or not this Administration will make an effort to implement the various points of the Kyoto Treaty absent ratification? The President has been very clear on that issue and nothing in this changes that; nothing.

Mr. DeLay. Mr. Chairman, I appreciate the Committee's indulgence. The President has been very clear on a lot of things that he turns around immediately on when it suits his purpose.

Mr. Lewis. Thank you Mr. DeLay. Ms. Kaptur.

clean water state revolving fund

Ms. Kaptur. Thank you, Mr. Chairman.

Welcome, Administrator Browner. I have to say, I have been in Congress for a little while now and deal with a lot of these agency and department heads.

I give you 100-percent for always returning your phone calls, for trying to be responsive to local communities, even when they are not the mega communities of the country. It is

appreciated and it is noted. We also thank your staff.

I do not know what is going to happen to you when you complete your tenure at EPA, but you know the Regional Administrator from out there in Chicago that we had to deal with all of those years became President of Lithuania. I do not know what your future holds, but I have a hunch it is very good. Now, as you know, I represent the bath tub of the Great Lakes, Lake Erie. We have lots of swimming, lots of fishing.

I just asked George Wilson, my very capable staff assistant, I said, when was the first Earth Day? I know I lived then, but when was it? He said he recalled it was 1970.

I just have to say in view of some of the more technical questioning that has gone on, and I know Congressman Stokes, the Dean of our Delegation, would agree that Lake Erie looks a lot better than it did. (Other parts of the country will have to defend themselves.) It is at least half clean now, but we are not finished with the job. We know that the whole concept of environment in our own lifetimes has been enlarged in the minds of the American people and the people of the world.

That has been a very, very good accomplishment. So, at the same time as we may question aspects of this budget or any other budget, we do live, I think, in a country that has grown up in this last quarter of the century. You obviously have been a leader in that regard.

I'll ask some of the questions I have, and I have a few here, then I will wait for the second round.

We still are struggling with the issue of clean water in our area. The City of Toledo, for example, has an old sewage treatment plant, the Bay View Sewage Treatment Plant, which really needs to be enlarged. When we run into trouble and in fact get cited by EPA and end up in court and all of the rest. We have these sewage overflows.

Essentially, the problem is the plant is not big enough to handle all of the run-off and the sewage. There is a lot of lake flushing that goes on as a result. There are some technical projects that are being pursued through the cooperation with the locality and EPA to build these big holding basins under the city.

Essentially, you have got this little pip-squeak of a plant trying to handle all of this. My question is, where in the budget, and I know we are not the only community like that, where can a community like mine get help when its facilities are really over taxed? Where are they going to get the kind of money that would be required to expand the plant?

Ms. Browner. There is included in this budget the Clean Water State Revolving Fund. That money is distributed among the states according by a formula approved by Congress.

The funding level that we are requesting would have that revolving fund revolve nationally at \$2 billion per year in the year 2005. So, that is where they go to get the money. They go to the state.

We give the money to the states. The total for the drinking water and clean water is \$1.850 billion, which is divided among the states. Then the states allocate it to the individual projects.

Ms. Kaptur. But there is no proposed increase in this budget. Is it not pretty much flat in that program?

Ms. Browner. It is honoring the \$2 billion commitment. One of the difficulties here is the Clean Water Act. I do not want to bring it up. It has not been reauthorized.

So, we are working outside of that context, given that the President made a commitment several years ago to the states to see the Clean Water Fund revolve at \$2 billion. This funding request is consistent with that commitment.

Ms. Kaptur. So, strategically, how would that help a community like ours access greater resources than it currently has to deal with basic hardware?

Ms. Browner. Over \$1 billion will be divided among the states, if this funding request is approved, specifically for waste water.

Ms. Kaptur. All right. And that you say would not happen, though, until 2005?

Ms. Browner. No, I am sorry. The money is handed out each year to the states based on the Congressional appropriations. When we have completed our current commitment in the year 2005, it runs somewhere around \$1 billion plus each year.

In the year 2005, the total amounts of loans that would be available will be revolving at \$2 billion. Each year, there is an appropriation which is then divided up among the states based on a formula.

Ms. Kaptur. All right.

Ms. Browner. Then the projects go get it from the state. Your state should have a list of projects that they are looking to fund. They prioritize and then they provide the money as it becomes available.

Ms. Kaptur. I am going to take that portion of the testimony and give it to our local mayor and president of the city council.

Ms. Browner. We will check and see the project you are concerned about.

dredged material reuse

Ms. Kaptur. Our local newspaper just did some pretty good reporting for a change on what our situation is with basic hardware for waste water disposal in our community.

One issue I wanted to bring to your attention because your Agency is involved, the Army Corps of Engineers is involved, and the Department of Agriculture is involved.

Being a Great Lakes representative, for years we have struggled with this clash between EPA and the Army Corps on disposal of dredged material. Really, it has been at an impasse for a long time.

They reach these little agreements at the state level and the regional level, but the fundamental problem is that we are always going to have this dredged material. The question is, are we going to continue to fill in CDFs, which obviously EPA has wanted over the years and which are very expensive.

We challenged the Department of Agriculture and it took one decade to do this; one decade. This member batting her head against the wall on three different committees.

We finally got the Army Corps through its Vicksburg, Mississippi research site, and the USDA, to take samples from three different places around the country, including the Great

Lakes, New York, and there is one other place that they are doing, to test the level of toxic material.

The findings are extremely interesting. Depending on where the dredged material is from, obviously, the heavy metals and so forth have different levels. We have technologies to lock in those metals.

We very much want to be able to reuse these dredged materials. My only comment here this morning is that we believe there are end users for these materials, such as Scotts and other companies, that are looking for organic compliments.

I would just encourage you and members of your staff who are responsible in these areas to work with our office to take a look at what the Corps is doing.

We really think we have something here that is very, very important. Long-term, this will be environmentally useful and save hundreds of millions of dollars in our current disposal practices.

I think it will get you out of the loop you are in which is just clashes with the Corps. So, if we had not worked on it for a decade, I probably would not mention it, but after awhile you just start to do these things and try to help others benefit from the efforts that we have put in.

So, I would just commend that information to you and ask for EPA's cooperation in this to find a new answer for the 21st Century and stop wasting all of this money on legal battles and building these CDFs where they are not necessary.

Ms. Browner. Thank you.

animal feeding operations: federal and state roles

Ms. Kaptur. I also wanted to ask a question. Mr. Hobson talked about industrial agriculture. One of my other major assignments here is agriculture.

This industrial agricultural issue where we have these mega facilities, including Somo in Ohio, has certainly caught my attention. One of my questions is how do you view the federal versus the state role of EPA in regulating these facilities? How often do you leave it up to state discretion versus regional intervention?

Ms. Browner. As we move forward from here, one of the important discussions that will take place is the appropriate balance between EPA and the states.

It is generally our desire to see the states handle issues such as this on a day-to-day basis when the resources and the technical know-how are available.

I actually think that we have been working with people in your state on this issue looking at how to best structure the federal state relationship.

I want to be very up-front about it. That is one of the issues that will be the subject of great discussion as we listen to people on our draft strategy, as we finalize that strategy and then move into proposed and final rulemaking.

Ms. Kaptur. Ohio will be one of the big agricultural states. Lots of these mega companies are coming in. I would have to say that the response that the State has been exceeding slow in my judgment.

Others in my state may choose to disagree with me. I really

think that EPA, in these discussions, has got to maintain a federal role. There ought to be some way for concerned citizens, township trustees, people without a lot of legal clout frankly to get their voices heard earlier; particularly where fines may be applied; whether it be your agency or other federal agencies.

Some of these plants ought to be on a watch list. So, I would encourage you on in your efforts here. I hope you will keep our office informed. I think my five minutes may be up, Mr. Chairman. I thank you very much and I will wait for the second round of questioning.

Mr. Lewis. Thank you, Ms. Kaptur. Mr. Frelinghuysen.

superfund: new jersey sites

Mr. Frelinghuysen. Administrator Browner, first of all, I want to thank you for visiting my Congressional District.

We have more Superfund sites in New Jersey, specifically in my District than any other in the nation. So, your physical presence at one of those sites that I have constantly talked with you about, Pepe Field, was a thrill for the locals and for me.

We appreciate the news that you brought with you. I want to commend you for your hands-on approach, but also the work of your staff and Region II. They have been out there whenever I have been out there. I suspect and hope that they are out there when I am not out there.

Ms. Browner. They are.

Mr. Frelinghuysen. We have so many sites to clean-up that there is nobody that does not live within five miles of one of these Superfund sites. I want to thank you for your time and effort.

Ms. Browner. Thank you.

Mr. Frelinghuysen. It was a horrible day. You flew up and God only know. I assume you got back safely.

Ms. Browner. Well, I am here.

superfund: funds spent to date

Mr. Frelinghuysen. A few questions that relate to the program, some of which I have asked before, but I think are good for the public record.

Can you give me an idea of how much money has been spent on the Superfund Program to-date? We often have this debate in the public arena about Federal money versus potential responsible party dollars.

I think the public benefits by knowing what they put forward in their own tax dollars and what responsible parties put forward.

Ms. Browner. About 75-percent of clean-up costs are now covered by responsible parties; the parties who have agreed to enter into a consent decree or whatever mechanism to undertake the clean-up.

The total amount to-date, going back to 1981, the private party expenditures have been approximately \$14 billion. The government expenditures approximately \$17 billion.

Mr. Frelinghuysen. Thank you for that response.

I know you had some questions prior to my arrival. I had a conflicting hearing. So, I apologize for not being here during your opening remarks. Relative to your overall budget, do you anticipate you will spend all of the money we gave you? Will there be any carry over funds?

Ms. Browner. There will be some carry over funds, but that is accounted for.

Mr. Frelinghuysen. Could you tell us what the carry over amount is?

Ms. Browner. For Superfund?

Mr. Frelinghuysen. Yes.

superfund: reauthorization

Ms. Browner. In fiscal year 1997 it was \$85 million.

Mr. Frelinghuysen. I also understand you commented on the need to reauthorize Superfund and that you had spent a lot of time and effort in that regard. I commend you for it. Are all the parties at the table, so to speak?

Ms. Browner. There is no table, well, as of today. We were.

Mr. Frelinghuysen. But prior to today, were all parties at the table?

Ms. Browner. The discussions that I referred to involved the Transportation Infrastructure Committee, Mr. Boehlert's subcommittee. The parties at the table included EPA and other federal agencies; Mr. Borski and Mr. Boehlert.

There were other people there too. I think Mr. Young had a representative there. Mr. Schuster had representatives there, but the primary parties were EPA, Mr. Borski and Mr. Boehlert.

Mr. Frelinghuysen. So, you are not giving up on the process, since I did not have the benefit of hearing what you said earlier.

Ms. Browner. No. I apologize. We would gladly go back to whatever table, whenever, to discuss whatever. We continue to want to see a bill. We were obviously disappointed. I think we made some real progress.

I do not want to speak for Mr. Boehlert or Mr. Borski but, in my opinion, we made some progress. We found some common areas of agreement. Mr. Boehlert has decided to go forward with a mark-up this afternoon. As we understand it, we will not support the marked up bill. We will oppose it.

superfund: funds spent for cleanup

Mr. Frelinghuysen. Would you comment briefly on, and I am sure you are familiar with the September 1997 GAO Report about how Superfund dollars are spent and their contention that 44-percent of every Superfund dollar goes towards the Superfund clean-up?

Ms. Browner. I would like to respond to that.

Mr. Chairman, this is an issue that has been raised by other Members. I think that it is important that we set the record straight here.

The GAO had done, I think, ten studies of Superfund in fiscal year 1997. Several of them have gotten a lot of attention; this one in particular. I think the GAO study says that only 49-percent of the appropriated dollars actually go to

clean-up.

I think it is important to understand what they did in this study. We disagree with this study. The easiest way for me to explain it is, if you were building a house, you would have the cost of hiring the contractor, buying the wood, buying the windows and all of that.

You would also say that inherent in the cost of that house was hiring the architect, doing the soil test, hiring the engineer, getting the permit to run the drinking water to the house.

In the GAO study, if you equate it to a house, the only thing they are counting is hiring the contractor. They do not count the architect. They do not count the engineers. They do not count the analysis.

You cannot build that house without all of that other activity. If you take all of that activity rightfully necessary to have a site cleaned up, and this would not include the lawyers which people ought to ask about, the number is actually 78-percent of the budget that goes to clean-up. So, we do have a disagreement with GAO. Perhaps they did not intend to do this, but the appearance they create is that only 48-percent goes to ``clean-up.''

We could not be at Pepe Field if the studies had not been done. Those studies should be properly accounted for in the expenditures and in the statements about what it costs to clean-up a site.

brownfields: prospective purchaser agreements

Mr. Frelinghuysen. All right, fair enough.

You had in your opening comments or remarks a comment relative to expanding and strengthening your brownfields partnership.

On page 39 of your budget justification concerning brownfields you state, ``the EPA will address liability barriers in the Brownfield Program by issuing comfort status letters or prospective purchaser agreements in appropriate instances which will facilitate sustainable redevelopment of these properties.''

Are these comfort letters and purchaser agreements legally binding? Does the EPA retain the right to sue individuals that purchase brownfield property? If they are not legally binding, do you think that a comfort letter is sufficient in ensuring potential buyers that they will not be held liable?

Ms. Browner. That is the purpose of the letters for prospective purchasers. The issue in brownfields is parties who had nothing to do with the prior contamination want to come in. They address the modest clean-up issues, and then redevelop the site.

We have worked very closely with the American Bankers Association and any number of institutions, the developers, realtors, et cetera, that represent these parties to craft these letters to give them the protection they think is necessary to proceed with the project.

We are using them. People are taking the letters and using them. By all accounts, it is working. How many of the letters have we issued? Do you know? This is Steve Herman.

Mr. Herman. I am not sure how many we have issued. The agreements are binding.

Ms. Browner. The agreements are binding.

Mr. Herman. I am the Assistant Administrator of the Office of Enforcement and Compliance Assurance.

Mr. Frelinghuysen. So, the contracts are legally binding. The comfort letters are not?

Mr. Herman. The comfort letters are not binding, but they have been found acceptable by the bankers and by other developers in terms of giving the reassurance they need. They provide EPA or others at the site with the assurance that if something totally unexpected happens we can act.

Thus far, they have been actually fairly successful. We have been able to move ahead on several large projects in Philadelphia and some other places on the basis of the comfort letters.

Ms. Browner. We use what is called a Prospective Purchaser Agreement. That is the binding one.

Mr. Frelinghuysen. Thank you, Mr. Chairman. I will have additional questions later.

Mr. Lewis. We will be back this afternoon, of course.

I wanted to clarify though for you; earlier as you were talking about the reauthorization of Superfund. The deadline is May 15.

After Mr. Boehlert's committee would work on it, there is another committee of jurisdiction which is the Commerce Committee. Such an action would then have to go to the floor. Then it would have to go to the conference.

We are out for three weeks in April. So, there is a little bit of a problem. Mr. Mollohan.

air quality standards: inhofe amendment

Mr. Mollohan. Thank you, Mr. Chairman.

Madam Administrator, it has been reported that you have recently reached an agreement with Senator Inhofe with regard to the National Air Quality Implementation Plan. Is that accurate?

Ms. Browner. Mr. Inhofe and I have discussed implementation of the new public health air standards. He has now attached an amendment to ISTEA. We do not oppose that amendment.

Mr. Mollohan. Does that amendment represent an agreement between you and he? Does it reflect your concurrence as to the particulars that are contained in the amendment?

Ms. Browner. The amendment reflects the implementation plan that we announced as a part of the new public health standards last summer.

Mr. Mollohan. So, you agree with the provisions of the amendment.

Ms. Browner. Yes.

Mr. Mollohan. Your last statement would imply to me that it does nothing more than affirm what you intended.

Ms. Browner. Correct.

Mr. Mollohan. Is that correct?

Ms. Browner. That is correct.

Mr. Mollohan. You really gave a lot here; did you not?

Ms. Browner. Well, it is very important to many people to

see it in legislative language as opposed to a Presidential Executive Order. We worked with Mr. Inhofe and others on the Senate side to achieve that.

Mr. Mollohan. The last point I would like to make out of that is do you affirm your agreement with that implementation plan, and the five-year monitoring schedule, and the three-year implementation for non-compliance areas irrespective of the enactment of the ultimate enactment of that amendment?

Ms. Browner. Absolutely. We stand by the implementation plan which was laid out in great detail and provided, I think, to every Member of Congress and put into Congressional Record, embodied in a Presidential Memorandum.

Mr. Mollohan. Thank you. Also, a part of that agreement, I understand, and may be a part of your intention to have the Federal Government pay for the monitoring activities of the states.

Ms. Browner. Yes. We had already made that agreement and in fact worked very closely with this subcommittee last year to honor that agreement.

You provided some additional dollars during the appropriations process. This spells it out. The amendments spells it in one sentence saying that is the case.

Mr. Mollohan. All right. Thank you.

Ms. Browner. Thank you.

ozone transport assessment group (otag)

Mr. Mollohan. I would like to ask you a couple of questions about the Ozone Transport Assessment Group, OTAG. Who are we going to tag, kind of what that is all about.

The starting point for my question is that one of the operative words there and that is assessment. There are lots of messages conveyed in titles we give to things.

I think the Ozone Transport Assessment Group kind of presumes that there is transport. Of course, that is given. The question is what kind of transport; how much transport; how far; quantities; qualities; and then what is the chemistry involved of any transport within what ranges?

I am concerned that EPA might make or might be making decisions about what kind of emission reductions are required in, say, the high valley or in the transporting states, even Mississippi I guess we are looking at.

Ms. Browner. Mississippi was a part of OTAG.

Mr. Mollohan. Yes. What you are assuming----

Ms. Browner. Mississippi was not one of the states. They were a part of the process. Every state east of the Mississippi was a part of the process.

Mr. Mollohan. You understand that I really do not even care.

Ms. Browner. Okay. I do not want anyone from Mississippi to suddenly care.

Mr. Mollohan. Sorry.

Ms. Browner. There will be a special edition of Inside EPA tomorrow.

Mr. Mollohan. I, of course, do because they are putting so much loading in there that it is causing all of these problems for all of these states. If we could just reduce for Mississippi, we could solve the problem.

So, I would like for you to talk a little bit about the monitoring results and how you are assessing those results and what kind of premises that is laying for decision making on your part with regard to emission reductions in different areas.

Ms. Browner. The OTAG process, the Ozone Transport Assessment Group, was made up, as I have said, of the states who worked over a two-year period to evaluate information, modeling information, air quality data, and then made a series of recommendations to EPA as to how to address the transport issue.

Mr. Mollohan. The whole idea is to help states in the Northeast. I mean the premise being that there is some transport of ozone to the Northeast that is making it hard to achieve compliance with their state implementation plans with regard to those.

Ms. Browner. I would state the premise just a little bit differently.

Mr. Mollohan. Okay.

Ms. Browner. But you sort of have it.

Mr. Mollohan. Well, you state it.

Ms. Browner. The premise is that one state's pollution is contributing to a pollution and a public health problem in another state. That may happen in the Northeast. It may happen in other areas. That is the premise of the effort. Chicago to Michigan is another area where that might happen.

Mr. Mollohan. To find out to what extent is that a correct premise.

Ms. Browner. Right. The states spent, as I said, two years looking at very complicated modeling, which we would be happy to demonstrate to Members of this committee. It is actually quite interesting to watch. You can see it.

Mr. Mollohan. I would be fascinated with that.

Ms. Browner. We would be more than happy to set-up a demonstration.

ozone pollution dispersion

Mr. Mollohan. Is not one of the things you found in that modeling exercise is that the transport has, I do not know exactly how I am going to say it, but there is a direct relationship between the impact of the emission and the distance to which it is transported?

In other words, that there is a diminished affect, a lessening effect the farther away you get from the source.

Ms. Browner. What the states found--this is their effort that they then brought to us--is that within some air sheds pollution is moving x-distance and in other air sheds it is moving y-distance. It was a very complex effort.

Mr. Mollohan. Are you able to talk about that?

Ms. Browner. The further you get away from a source--and in some air sheds that may be 200 miles, in another air shed that may be 400 miles--you ultimately get dispersion.

There is always going to be the phenomenon, whether it is water or air, that dilution changes the pollution. Some people would say the solution to pollution is dilution. So, you do have some effect. If I might give you just a second on where we

are in the process.

Mr. Mollohan. Sure.

otag process

Ms. Browner. The states went out and gathered data and ran these complex models. Then they made a proposal to EPA in terms of what reduction levels would be necessary to achieve the public health goals or to achieve the public health standards.

We then issued a proposed notice of rulemaking, which we are now taking comment on, that would require states to make adjustments in their state implementation plans based on the work that the states did.

We have not finalized that rulemaking. That would happen this fall. Then there would be one year for the states to rewrite their plan.

Mr. Mollohan. Okay. Thank you.

Ms. Browner. Okay.

Mr. Mollohan. I appreciate knowing all about it. To what extent, getting down to the particulars, did the modeling show with regard to distance and the effect of over distance and the impact of the source in the receptor area?

Ms. Browner. That is not a question that can be answered generically. We would be more than happy if you have a specific air shed you want an answer on because it will vary.

Mr. Mollohan. I am glad to hear you say that because I think if you deal with this on specific air sheds and specific sources, it would be a lot better process.

Ms. Browner. Some have suggested that it be dealt with. As you know, the northeast states have filed litigation saying deal with it on a site-specific basis.

Mr. Mollohan. Do you agree or disagree that the problem with the proposal is that the OTAG modeling strongly suggests that the airborne transportation of ozone is only a concern within a radius of 150 miles?

Ms. Browner. Absolutely not. I do not agree with that statement. I do not agree that there is an error, if you will, in the proposed notice of rulemaking.

We are taking comments. We have not made a final decision. We will review all of the comments, but at this point we would not say there is an error or not.

Mr. Mollohan. What do you mean an error? Tell me about that.

Ms. Browner. I thought you had said that there was an error in the notice.

Mr. Mollohan. No, I did not say that.

Ms. Browner. I apologize. Then I misheard you.

Mr. Mollohan. I did not say that.

Ms. Browner. Okay. I apologize.

Mr. Mollohan. I said, do you agree that the transport of ozone is only a concern within a range of 150 miles and that the modeling in this showed that?

Ms. Browner. No. We cannot agree to that across theboard. In some areas, it will be greater.

sip requirements: northeastern states compliance

Mr. Mollohan. To what extent have these northeastern states complied with their SIP requirements?

Ms. Browner. All of the northeastern states now have in place a SIP plan that they are working on.

Mr. Mollohan. To what extent have they achieved compliance?

Ms. Browner. We would be more than happy to provide you with that on a state-by-state analysis. They all have different deadlines, different agreements, but we can provide that to you.

[The information follows:]

[Pages 71 - 108--The official Committee record contains additional material here.]

Mr. Mollohan. All I am asking you is have all of the New England states met their SIP requirements?

Ms. Browner. They all have in place their plans.

Mr. Mollohan. I know that. Have they achieved compliance with those plans?

Ms. Browner. Some of----

Mr. Mollohan. I mean, that is just a yes or no, ma'am.

Ms. Browner. It is not a yes or no and I will tell you why.

Mr. Mollohan. Okay. Please do that.

Ms. Browner. Because they have deadlines within their SIP plans and some of those dates have not come to pass, but that does not mean that they are out of compliance with their SIP.

Mr. Mollohan. I am not saying they are out of compliance with their SIPs. Have they achieved the reductions set forth in their SIP?

Ms. Browner. They are on track to achieve them in the time frames provided.

Mr. Mollohan. Okay. Well, I just want to understand that without good science, I mean you fight this really, but the mid-western and the high valley states or is this presumption that emissions from there are contributing to, let us say, ozone in the northeast?

That may or may not be true. But to impose emission reduction requirements without understanding to what extent is that true, over what distance is that true, without knowing the particulars of that can be, first of all, it is wrong just to assume the problem.

That is why we are doing the modeling and not to be precise about that imposes tremendous economic hardship on an area that has already assimilated an awful lot of statutory and regulatory activity.

So, I would simply encourage an openness with regard to what is the science here and to try to factor in the science results and the modeling, when you were so adamant about saying, no, there is no affect over distance, and no, I do not agree. It is just kind of the approach to it. All we are really asking is to be more precise about it and to establish these relationships in a more definitive way, instead of kind of the Chicken Little, the sky is falling, as we did with the acid rain.

I mean obviously the conclusion of the report that

something to the effect that the more NOX that is reduced, the greater the benefit. I mean, you know, who cannot agree with that?

That is really not the issue. The issue is if we are trying to address a problem of the northeastern states achieving attainment, and we are trying to factor in well what part of the problem is caused by long distance transport, that is a very precise sort of question which needs good science, and good modeling, and a real understanding before you impose blanket 85-percent across the board emission reductions, or in West Virginia's case 44-percent emission reductions. So, that is all we are asking is a little precision.

sip process

Ms. Browner. That is the process we are in now, which is for every state, every industry that could be affected, to give us any additional information.

I just want you to understand that we spent many years sitting with your state and many other states up here. This is not Chicken Little. This is based on a volume of data that is quite extensive.

Mr. Mollohan. Amendments to the Clean Air Act, you know, we were in the middle of the air quality study when you imposed that and the results were really not supporting.

I say we are in the middle of that and you are agreeing, as I understand it. I am going to wait until after recess to ask you about that.

Ms. Browner. What am I agreeing to? If I could know what you think I have agreed to?

Mr. Mollohan. No, no, no. I am going to tell you so you can think about it. I will do that.

Ms. Browner. Okay. That would be helpful.

Mr. Mollohan. I would like to ask you what you have agreed to with the northeastern states in the suit and the settlement. So, when you say we are in the middle of this study and then we are agreeing on----

Ms. Browner. I am sorry?

Mr. Mollohan. I said we are in the middle of this process.

Ms. Browner. I did not say study.

Mr. Mollohan. I understood you to say that.

Ms. Browner. I said we are in the middle of a process.

Mr. Mollohan. Okay. We are in the middle of a process.

Ms. Browner. Taking public comments.

Mr. Mollohan. So, for you to go and make settlements and agreements with the Northeast that affects this process before we are done with that process.

Ms. Browner. Well, no, actually; we can explain that.

Mr. Mollohan. Well, I look forward to you doing that.

Thank you.

Mr. Lewis. Thank you Mr. Mollohan.

I must say that Mr. Mollohan was carrying us through a process I know was not totally comfortable.

Ms. Browner. I am fine. I am totally comfortable. I am fine.

Mr. Lewis. One could go through the same process, though, relative to global warming and some would take you through

that. There are 2,500 scientists who would agree with one side, but some people would say that there are 2,500 scientists who would agree with the other side; another argument.

At any rate, the Gentle Lady, Ms. Meek, has been very patient.

budget summary chart

Ms. Meek. Thank you, Mr. Chairman.

As a neutral party, I can say I went through this same argument last session; the question of the Administrator here about these same principles. So, I am well-versed on these kinds of matters.

I would like to commend the Administrator for the view the public has of EPA. I think that is good. The Washington Post has shown that civil servants rank more highly with the public than we do as elected officials.

budget summary chart

We certainly want you to keep that distinction. We want EPA to work to get even higher on this ranking in terms of public support. My question, though, is one that has to do with your chart, Madam Browner, that you have at page 12 of your budget summary.

I want you to explain to me how this graph works. They did not make these kinds of graphs when I was coming through school. Tell me what that means in terms of Trust Funds. I cannot seem to get a handle on it.

Ms. Browner. If I cannot explain this, if they have to explain it to me, I am the first to agree we should take this chart out.

Ms. Meek. Okay.

Ms. Browner. I think I can explain it. Okay, I got it.

Ms. Meek. All right.

Ms. Browner. The gray section of the chart, the bottom dollar amount, is the total amount for what we refer to as water infrastructure. That would be the Clean Water State Revolving Fund and in the later years the new Drinking Water Revolving Fund.

For example, in 1999, the \$2 billion plus, every dime of that goes out to the states to be divided on a formula basis to improve drinking water, to improve waste water. The next piece, the black on the chart, the \$2.1 billion in year 1999, is what is commonly referred to as the Trust Fund Programs.

The lion's share of that is the EPA Superfund Program. The only other thing really in there is the Leaking Underground Storage Tanks, the LUST Program.

Those are carried as a Trust Fund because a tax historically has been collected and placed in a trust fund for the fund of those programs. So, that is Superfund and Leaking Underground Storage Tanks.

The white portion of the chart is everything else we do, from food quality, to right to know, to children's health, to research and development, the work we do with universities, everything else we do.

So, if you really think about money to the states for

water, drinking water, waste water, Superfund, underground storage tanks, and everything else, including other money we give to the states.

There is other money in this pot up here that goes to the state.

[The budget graph follows:]

[Page 112--The official Committee record contains additional material here.]

Ms. Meek. I am satisfied with that because I did not understand anything before your explanation.

Ms. Browner. I agree that we could have done a better job on that chart.

trust funds

Ms. Meek. How do you handle your trust funds?

Ms. Browner. There are essentially three fees that historically have been collected that go into two different trust funds. Two of those are not being collected and have not been collected for two and a half years now.

There is a tax on chemical feed stock and a percentage of the corporate environmental income tax that has been used to fund Superfund. Those fees have not been collected for two and a half years.

The fund still has money in it. Collections were higher than people had anticipated; as well as interest and repayments to the fund. Since January 1996, those fees and taxes have not been collected.

Ms. Meek. Thank you. That was one of my questions. I can wait for the others until after the break.

Mr. Lewis. Well, you know, you might very well want to complete your questions for this round. We are going to recess as soon as you are through until we come back again at 2:00 p.m.

historically black colleges and universities (hbcu) participation in
star

Ms. Meek. All right. My next question, Ms. Browner, has to do with your training program. You have the Fellowship and Research Grant Program.

Ms. Browner. Yes.

Ms. Meek. Tell me, what is going on in that? It is so cold in here, Mr. Chairman, I am losing my voice. Tell me what is going on with Historical Black Colleges and Universities in that program?

Ms. Browner. We work with HBCU's through the Science to Achieve Results Program, the STAR Program. The STAR Program has been a huge success. It allows us to access the scientific efforts, research activities of individuals outside of the Agency where we think that work may be of benefit to us.

It is a competitive grants program. We solicit applications through the HBUC's quite actively.

Ms. Meek. How many do you have?

Ms. Browner. We will get you the answer.

Ms. Meek. All right.

[The statistical information on the STAR Program follows:]

HBCU Applications to STAR

In fiscal year 1997, EPA received a total of 32 applications from HBCUs under the STAR program, including 10 under the STAR grants program and 22 under the fellowship program.

post-doctoral research: participation by african-americans

Ms. Browner. We do have another program for what we call our Post-Doc Initiative.

Ms. Meek. Is that the Post-Doctoral Program?

Ms. Browner. Yes; to bring people into the Agency. In STAR, the people stay outside of the Agency and continue at their university in their graduate program.

The Post-Doc Program is to bring in 50 post-docs to the Agency for three years to work with us on areas of mutual concern. There, we are working to ensure that the minority academic community is appropriately represented.

Ms. Meek. The reason why I am asking these questions is one is the fact that I am not sure this time. I remembered your figures from the past, just how many African-Americans you have in some of these programs because I am sure you should be trying to grow your own.

Ms. Browner. We are trying.

minority employment at epa

Ms. Meek. When I look at the people who are with you today, I do not see very many black faces. They may be back home, but they are not here. So, it seems you have some efforts.

Ms. Browner. Yes, we do.

Ms. Meek. I just needed to know to what extent you have people in those programs.

Ms. Browner. We do have a number of efforts to work with HBCU's and other minority academic institutions. We have also had programs within the Agency to ensure that qualified people of color have equal opportunity for advancement.

It is important to us to both make sure we have senior managers and that we are bringing in more recent college graduates. We have a number of efforts to do that. Ten and a half percent of our SESers are now minority.

Ms. Meek. Excuse me, madam. When you say ``minority'' I am specifically asking for black Americans.

Ms. Browner. I can give you that.

[The information follows:]

African-American SES at EPA

EPA currently has 17 African-American SESers: 12 male and 5 female.

Ms. Meek. Minority is a very large category.

Ms. Browner. Right. I can give it to you as the total Agency. Of total Agency African-American females is 14-percent of the Agency. African-American males are 4-percent of the Agency. That is just African-American. Then if you total out we also have Asian Pacific, Hispanic, Native-American.

Ms. Meek. I guess my final statement is that these things work together. I am not taking a cursory view toward this. I am very serious about my interest in this. It is not just to provoke some kind of answer from you that will make me happy.

Ms. Browner. I know.

Ms. Meek. I am just trying to say that these programs should be working toward a goal in terms of improving the participation by black Americans in EPA. In the past, it has not had such a good reputation in that regard.

I need to say for the record that there are many black Americans who have outstanding scientific training and could work very well in EPA. We also are concerned about our many communities that are left with so many environmental problems which I spoke to you about at the very beginning.

Most of the waste dumps and all of those places you are talking about and some of the esoteric descriptions you are making, these are people in these inner city districts, inner city areas, that we need to focus on.

So, you do need to supply yourself with people in the Agency who understand this problem. I do not care what color they are as long as they understand the problem.

Ms. Browner. If I might ask if we could take some of your time to sort of give you a more detailed briefing on the efforts of the last several years to reach out and to bring in more minorities, particularly African-Americans.

We had a very serious effort in this regard, if we might show you. We are making process. By no means do we think it is as good as it should be, but we do have an effort underway.

Ms. Meek. I am glad to hear that because there is a reciprocal benefit, both for those communities and for the Agency.

Ms. Browner. Definitely; absolutely.

Ms. Meek. Thank you. That is all.

Mr. Lewis. Thank you, Ms. Meek.

This session has gone on about 15 minutes or so longer than I expected. The committee will be adjourned until we reconvene in this room at 2:00 p.m.

critical infrastructure protection: president's commission

Mr. Lewis. The meeting will come to order.

Ms. Browner, what role did the EPA play in the President's Commission on Critical Infrastructure Protection?

Ms. Browner. If I might ask Tim Fields to respond to the question in terms of our participation on the RMP issue.

Mr. Lewis. Mr. Fields.

Mr. Fields. Yes. Thank you very much. I apologize for getting back late. We have been working very closely with the Critical Infrastructure Group to talk about those other issues you raised earlier about the balance between the accessibility of RMP information and the security concerns you raised.

We have been having a dialogue with the FBI and CIA as

well. We are consulting with them on this issue. We want to make sure we have a diversity of opinions. Most people agree that Congress intended that there be an accessibility of certain of this information, but appropriate security safeguards need to be maintained.

So, the dialogue has been that we want to get advice. We are still having further meetings with this group as well as others right now to try to get a consensus opinion as to what information can be made available, and at the same time make sure that the national security interests are protected.

The safeguards that Carol referred to this morning are one way. We want to make sure that when we do ultimately agree on something, that it has the support of all of the security agencies as well, such as the FBI, the CIA, and the Critical Infrastructure Group. That dialogue is continuing. No final decisions have been made.

We are getting everybody's opinions. We want to make sure that, the ultimate decision on the availability of RMP information reflects the views of all of the stakeholders involved in this dialogue.

open source information: access to data

Mr. Lewis. Let me go at it from another direction and maybe broaden it a little. Do you follow any pre-determined procedure to consult with other agencies or perform necessary analysis in order to make judgments on the value of proposed open source information to terrorists, or agents of economic espionage?

If you do, will you explain what that procedure is? If not, why do you not have such a procedure?

Mr. Fields. Well, this is virgin territory, as you know. As Carol said, we formed the FACA Group to advise us on this issue. We brought together environmental groups. We brought together industry people, people in the national security arena to get some input on this issue and information resource management experts. We wanted to hear from all walks of life. We do not really have a protocol at this point.

We want to make sure that we carry out the requirements in the law about the availability of data, but at the same time make sure that critical national security interests are protected and that terrorists do not get access to this data.

So, we are trying to consult with everybody. This is something we never had to deal with before. We are trying to make sure we take into account the best advice from the national security experts in making an informed judgment on the availability of their RMP data.

As you know, the RMP data would start coming in June 1999, the deadline pursuant to the regulations. So, we essentially have a little over a year to make a judgment as to what we are going to do.

We do not want to make a precipitous decision. We have got to make sure that these critical national security interests are reflected in our ultimate decision. We have been giving it a lot of thought.

No decision has been made. We are trying to make sure we consider everybody's point of view in deciding what information is made available regarding the risk management plans.

rmp rule: omb guidance

Mr. Lewis. I consider this whole subject area to be of critical importance. I want it to be raised at a much higher level in terms of general concern around this place than it has been. Has OMB provided any guidance relative to the RMP Rule?

Mr. Fields. OMB has been involved in the development of the RMP Rule. They have been involved with us on that. We have worked very carefully with the personnel at OMB on the content of the rule.

We are discussing with them now this whole issue we are chatting about right now, which is what information should have been made available? What can be made available on the Internet?

They have been intimately involved in the rule itself which we issued in 1996, as well as the implementation stage we are in right now trying to decide how do we put in place the procedures to receive this information in June 1999.

So, we have had dialogue with OMB, as well as other parties that we talked about earlier.

Mr. Lewis. Have they, by that I mean OMB, provided any general guidance to decrease the risk of economic espionage and terrorism from open source information issues?

Mr. Fields. They have not provided any guidance to us in that regard.

Ms. Browner. They have been involved, but no written guidance.

Mr. Fields. No guidance; just dialogue. Everybody has been talking about the pros and cons of this. A lot of intense dialogue is going on, on this issue. OMB has been involved in that discussion, but no guidance.

Mr. Lewis. What other agencies collect or utilize sensitive open source data that may be of interest to terrorists?

Mr. Fields. I do not know the list. We can get that information and supply it for the record. I do not know the list of all of the agencies who provide this kind of information.

Mr. Lewis. I am interested in knowing agencies that provide information to make the data available, et cetera, that might be of interest.

Mr. Fields. We will be happy to supply that for the record, sir.

Ms. Browner. We will check with OMB and provide whatever they have.

[The information follows:]

Sensitive Data: Other Federal Agencies

EPA was informed by OMB that they do not have a listing of agencies that collect or utilize sensitive open source data that may be of interest to terrorists. OMB referred EPA to OMB Circular A-130, Management of Federal Information Resources, as the guidance document for handling of sensitive open source data. In addition, EPA has a chapter devoted to information security within our Information Resource Manual. The authorities which govern our policies include: Office of

Management and Budget (OMB) Circular A-130, Management of Federal Information Resources; Computer Security Act of 1987; Privacy Act of 1974, as amended; Paperwork Reduction of 1995 (P.L. 104-13); Trade Secrets Act, 18 U.S.C. Section 1905; The Freedom of Information Act of 1974 (5 U.S.C. Section 552).

The Risk Management Plan (RMP) data will assist state and local governments responsible for chemical emergency preparedness and prevention. It will also be useful to environmental and community organizations and the public in understanding the chemical risks in their communities. EPA has examined options other than the Internet for disseminating RMP data. Since October 1996, EPA has worked closely with all stakeholders, through the Accident Prevention Subcommittee and the Electronic Submission Workgroup, to find a common ground on this issue and to strike a balance between security concerns and the public right to know. We have come a great distance towards resolution, although we have not reached a full consensus. In terms of timing, EPA will begin receiving RMPs in January 1999. To be ready to accept RMPs and make them available to the public, as required by the Clean Air Act, we are moving forward with system development. At the same time, we will continue to work to find a balanced solution.

rmp rule: data management alternatives

Mr. Lewis. Why have you not undertaken a project to thoroughly study various data management alternatives as suggested by your contractor?

Mr. Fields. That is not something that we have dismissed. We have looked at that issue. We have not decided one way or another whether or not to do that. That is still an issue and still open.

We are looking at all of the best options for how we handle this. No final decision has been made on how we dispose of the recommendations that have been made by the contractor in this regard.

Mr. Lewis. Above and beyond just raising the level of cognizance of this problem around, you are very close to the point of rulemaking here. Timing, of course, is very important.

I would want to make sure that we have examined every avenue of information possible before we get to the point of rulemaking or finalizing rules.

Mr. Hansen. Mr. Chairman, I might add that on behalf of Carol and me, we have asked Tim to be able to make sure that we are not proceeding with any approach on this, in terms of just dissemination of the information, until we are satisfied that the national security issues have been fully addressed.

That is a part of why we are back in further discussions with both the FBI and the CIA to ensure that those people who are expert in this field have informed us on whether our steps are appropriate. That is something that Carol and I have felt very, very strongly about.

Mr. Lewis. Okay. So, you will not, for example, put worst case scenario information on the Internet until you have such assurance. Do you have such assurance? Will you have such assurance?

Mr. Fields. Yes. That is our plan.

Mr. Lewis. I am not trying to be argumentative here. It is a very sensitive subject.

Ms. Browner. Chairman Lewis, if there are some individuals that you think it would be helpful for us to meet with, we are more than happy to do that. I mean, obviously you have a tremendous knowledge on this.

We could benefit from that. If there are other individuals out there who have raised particular issues, if we could hear from them that would be great.

Mr. Lewis. We will talk to you about it.

Ms. Browner. Okay. That would be great.

Mr. Lewis. I do have additional questions on the same subject area. I do not want to belabor it, but it is very, very important.

I have asked questions about agencies, et cetera, but maybe that can be better handled as I talk with people. The other venue I have is the Intelligence Committee. I would like to see what their concerns are. Mr. Mollohan.

noX emissions: petition by northeastern states

Mr. Mollohan. Thank you, Mr. Chairman.

Ms. Browner, I just want to give you a chance to talk a little bit about this agreement with the Northeast on the 126 petitions that have been filed.

Let me just introduce or read in this. In the New York Times of February 25th, it reports, ``Compromise is reached on powerplant emission in Mid-west. Environmental Protection Agency in eight northeastern states have reached a compromised schedule for requiring electric utility plants in the Mid-west to cut down on smog causing emissions that drift eastward and pollute the air over Pennsylvania, New York, and New England, state officials said today.

``The Agreement could lead to controls on emissions of nitrogen oxides which form smog from coal-fired powerplants, in the mid-west as early as 2003, four years earlier than was likely under the approach favored by the Agency.''

Could you just comment on this process and what kind of compromise was or was not reached as reported in this article?

Ms. Browner. Just through memory, I believe the quote is from a state individual and not an EPA individual. So, that would be their characterization of what happened.

Mr. Mollohan. I am just asking for yours.

Ms. Browner. The northeast states exercise their rights under the Clean Air Act. Essentially, I guess the easiest way to think about it is that they sued us to force us to require reductions from specific plants that they believe are contributing to their air pollution problem.

Many of those plants, as you point out, under their scenario, are in the Ohio Valley in the Mid-west. We believe that the process that we have been engaged in at the state's leadership under OTAG is the way to get the best answer.

We negotiated a resolution of that matter with the northeast states for the time being. The lawyers all use very careful words that essentially sets the litigation aside. It does not remove any of their ultimate rights, which was important to them, as you can well-understand.

It sets that litigation aside while we work in the OTAG process with all of the states. If the OTAG process should fail, obviously the northeast states retain their rights under the Clean Air Act.

I am using the OTAG process to refer to a number of steps that we have discussed earlier instead of just using it as a very broad explanation. Our hope is that the process will be successful and that the 126 petitions would not be reactivated.

Mr. Mollohan. That they would fold it into whatever decision that comes out of the OTAG process.

Ms. Browner. Exactly. That is the time frame that was agreed to. The way it was structured is that the time frame is merged at this point. As I said before, if they are unhappy with or believe that somehow or another OTAG has failed them, they do retain their rights and could re-exercise. They are sort of held in abeyance for the moment.

Mr. Mollohan. All right. Thank you, Mr. Chairman. I thank the Administrator. I look forward to working with you on all of these issues, the clean water issues. I think it is \$1.6 billion there in that Abandoned Mine Fund. We have got to work on that.

Mr. Lewis. Thank you, Mr. Mollohan. Mr. Walsh.

fqpa implementation: minor use pesticides

Mr. Walsh. Thank you, Mr. Chairman. Good afternoon.

I have a letter that was sent to Dr. Lynn Goldman from Chairman Smith of the Agriculture Committee. I would like to ask a question or two regarding the Food Quality Protection Act implementation as regards certain chemicals and pesticides.

The issue is minor use pesticides that are used in specialty crops and the inability of the industry to replace those and the difficulty of replacing some of those, and the result in economic impact on farmers.

The letter, and I will quote it. It says,

In order to meet the deadlines and comply with the requirements of the law, we are advised that EPA plans to use default assumptions which will result in numerous cancellation of tolerances beginning as early as 1998.

We believe this action is unnecessary and that the law clearly provides the Agency with broad authority to delay the effective date of an order or regulation to provide registrants and others the opportunity to develop data to support the continuation of the tolerance.

Could you comment? Could you give us an EPA response to that?

Ms. Browner. As required by the law, we have to assess or reassess over 9,700 tolerances over the next ten years. We do them sort of a third, a third, and a third. That is the easiest way to think about it. By 2002, 6,467, or 66%, will be reassessed and by 2006 all 9,700 tolerances will be reassessed.

We are in the process of reassessing existing tolerances. We base the reassessment on the best available science, as the law requires. This reassessment is required because today we have much better information about human dietary intakes and

human exposures.

We have notified the pesticide industry of our reassessment methods. We will be making these evaluations. To help make the best decisions we have encouraged the pesticide industry to provide data to us so that we can have the benefit of scientific information they have.

We will make these tolerance reassessment decisions based on the available science. This does require the cooperation of industry.

If they do not want to give us information, then that is a really serious problem. I do not know that it is fair to put the public's health and their protection at risk. This Congress voted unanimously to strengthen the food safety law and to give us authority.

Many in the industry supported that bill. Now, they need to provide information to us. Some have been forthcoming. We need all of them to be forthcoming.

Mr. Walsh. In many cases, these pesticides we are talking about are minor use pesticides. In many cases, there are small manufacturers that produce them. There is a concern that they may not have the resources to comply with your request for that information.

Ms. Browner. We have a special minor use effort underway and have created a minor use team with an ombudsman.

So, we are making ourselves more available to small manufacturers or producers. We are also working closely with USDA. If there are other things people think we could do, vis-a-vis minor uses in our outreach efforts, please let us know and we will do what we can.

We have taken very seriously the questions raised by farmers, by companies, and Congress vis-a-vis minor use.

onondaga lake: municipal compliance

Mr. Walsh. I will leave that one for now. Just one other question or comment regards the Onondaga Lake project in my District where EPA has been very, very helpful and supportive on the constructive Onondaga.

Ms. Browner. Is it a Great Lake?

Mr. Walsh. No. I am told only the Senate can do that. The House does not yet have that power. It is a wonderful lake though. It is getting better every day thanks to your support.

Ms. Browner. Thank you.

Mr. Walsh. The County is responsible for something called an MCP, Municipal Compliance Plan for the clean-up of the lake. All of the parties have agreed to that.

Ms. Browner. Yes.

Mr. Walsh. The County is a little concerned though that their share of the burden or the ratio is 55/45. It is their understanding and they are a little concerned that EPA has just or is about to pass regulation that would allow for contracting with not-for-profits or NGOs who could participate in these projects.

That their share would be or the ratio would be dramatically different. It would be perhaps 95/5. That is something you would be willing to work with the County on?

Ms. Browner. Yes. Let us talk to them and see.

Mr. Walsh. Okay. I will leave it at that. Thank you.
Thank you, Mr. Chairman.
Mr. Lewis. Thank you, Mr. Walsh. Ms. Meek.

deep injection wells

Ms. Meek. Thank you, Mr. Chairman.

Administrator Browner, you are very much aware of the many problems we have in Florida. Many municipalities in Florida, particularly in South Florida, dispose treated domestic waste water through what you call or what is known as Class I Deep Injection Wells.

Many of these wells are suspected of fluid movement out of the permitted injection zone. The Florida Environmental Protection Agency working with the waste water disposal industry recently proposed a regulatory solution to this problem, which involved reclassifying injection wells as Class V wells.

The EPA rejected this proposal. Can you shed some light on this decision for me?

Ms. Browner. Yes. Unfortunately, it would not be appropriate for me to do that. When I was the Secretary of the Florida Department of Environmental Regulation, I had an opinion on this set of issues.

Under the ethics laws, I am therefore not allowed to be involved in the issue. That would be viewed as a conflict of interest.

Ms. Meek. Well, did you tell them you were the best?

Ms. Browner. Well, I am more than happy to tell you what my opinion was five years ago. I do not know that the people who worked on this compromise would be happy to hear it. So, with that, maybe Bob Perciasepe could answer the question.

Ms. Meek. Thank you.

Ms. Browner. There are very few of these issues left. Early on, there were many of them, but unfortunately this is one.

Mr. Perciasepe. I appreciate the invite to come up here. I am not completely familiar with the specific issue of these wells. However, we can get back to you for the record on that.

Clearly, there is an issue between permanent long-term contamination of the very important aquifers in Florida versus other controls. There is a difference between a Class I and a Class V regulatory regime and what you can be allowed to put into the wells.

So, our regional offices are probably very involved with that. We will research that and we will get back to your staff on that.

Ms. Meek. Thank you.

Ms. Browner. In fact, our Region IV Administrator, John Hankinson, is actually in town today. We can make arrangements for him to join us at tomorrow morning's hearing and answer the question.

Ms. Meek. Thank you. Thank you very much and thank you, sir. My other question is regarding the EPA Brownfields Program.

brownfields

Ms. Meek. What efforts has EPA undertaken in coordinating the Brownfields Program with the IRS to facilitate the resolution of some of these tax liens which you have placed on Brownfield Projects.

Sometimes these liens often encumber these projects and they delay efforts for us to clean them up. So, my question is, it has been very difficult for the City of Miami, particularly in one or two areas in my District, for these tax liens to be cleared up and the brownfields could be cleaned up.

I am just wondering if you are familiar with these contaminated sites and working with the residents on them. We have been working with them. There is a lot of anxiety on the part of these residents because of the potential health impacts living around these sites.

I just want to know if you have any plans or any programs or any funding that is available for local public health assessments? What kind of effective risk communication do you have in these brownfields areas?

One more thing. This is sort of a trifurcated question. Has there been any coordination with HUD in terms of trying to work this out?

Ms. Browner. Going backwards; yes. We work closely with HUD and actually a number of federal agencies on the brownfields efforts.

For example, we will shortly announce the showcase communities which will be a group of communities who have competed for a program. That brings together, I think, 13 or 14 different federal agencies to address the brownfields problems.

Even outside of that program, we have been working closely with HUD and others. We have also worked with the IRS. The issue that has been tremendously successful is included in the balanced budget agreement.

It is a tax cut for companies or individuals who undertake the clean-up of a brownfield site and the redevelopment. They can take a deduction on the clean-up cost. I think that was cost out in the balanced budget agreement at approximately \$2 billion over five years.

We think it is a very important step. It is now available at sites across the country to parties across the country. In terms of the lien issue, that will tend to be federal or it could also be state and local issues. Sometimes you have state and local liens on properties for failure to pay state and local taxes.

In those instances, obviously that is a difficult situation for us to address. In the case of liens in terms of federal taxes that may be owed, I know we have had conversations with the Department of Treasury about this. We will continue to try and resolve them where appropriate.

Ms. Meek. We have been able to work with the state and with the local entities. Many times they have forgiven these things and they have been worked out. It is the IRS that we have not been able to work with.

Ms. Browner. If there are some specific ones we need to check on, just if you could give us the descriptions we would be happy to do that. I do not know that we can promise absolute resolution, but we are certainly happy to discuss them with the IRS and to see if there is a resolution that can be forthcoming.

I think it would be extremely useful to know if the state and the local government have forgiven their liens on these sites.

Ms. Meek. Only one that I am aware of.

Ms. Browner. Okay. I know that is a multi-level government challenge.

Ms. Meek. Right. I think, Ms. Browner, those are the major questions that I needed to ask. My major concern, naturally, number one is the brownfields and the clean-up and some of the impediments which have caused us not to be able to go forward with redevelopment.

Everyone has a good idea. They want to redevelop these areas. I come to my Chairman and I ask for money. Sometimes, he will give me a little crumb. But when he gives me the crumb, then sometimes I cannot match it.

I cannot do it if there are so many blockages and impediments in redevelopment. So, tell me if there is some initiative that I can propose that would relieve some of these blockages if it cannot be done on the level of the agency.

It remains the fact that I will have to call some names like Winwood, which is the poorest community in my District; primarily Hispanic, very, very poor and we cannot clean it up. Those waste sites are there.

They are a health impediment. I would like to be able to move off that if I can, but I need some help in terms of where do we go from here----

Ms. Browner. Well, the most important thing at this point in time is support for the budget request. Included in the budget before you is \$91 million for the Brownfields Program.

That would include assessment, pilots, a revolving loan fund, the establishment of a fund that would allow low interest rate loans to be made so that the developers could come and do the assessments, do the clean-ups and the redevelopment. If they could not access other capital, this would make available some capital; the Brownfields National Partnership.

This is, I think, one of the really great successes of this Administration. Right now, when I go out and I talk to mayors and I visit communities what I hear is, please make more grant dollars available. So, we are here asking for that.

Ms. Meek. All right. Thank you. Thank you very much.

Thank you, Mr. Chairman.

Mr. Lewis. Sometimes I think my world is crumbling. I think, as the Administrator knows, that in the past the Committee has not gotten into the special designation for Brownfield Programs, per se.

We would like to continue on that with that pattern. So, I know that you will be very sensitive to the Gentle Lady, regardless of that.

Mr. Knollenberg.

pm research program

Mr. Knollenberg. Mr. Chairman, thank you.

Ms. Browner, how are you? Welcome.

I want to talk about NOX a little bit. The last time around in the bill we had allocated some \$49.6 million for Particulate Matter Research. The report directed the EPA to

within 30 days of October 10, to enter into a contract and then, of course, design a near and long-term PM research program.

For the record, can you tell me the status of the near term research program? Is it on schedule?

Ms. Browner. Yes. In fact, I think, against what many people thought would be a deadline we could not meet, with the good assistance of the Chairman's staff and others, we did in fact meet that deadline. We are on track.

We expect that the National Academy of Science Report on the short-term research will be available as was planned in March 1998 and the long-term research plan in November of 1998. It really was a very good effort involving a lot of people up here to move it through the contracts process in an expeditious manner.

Mr. Knollenberg. How much was addressed to near term research?

Ms. Browner. There is no breakout at this point because we are waiting for the plan to come back. Then based on the plan the dollars will be allocated between the short term and the long term.

Mr. Knollenberg. Forgive me if I am wrong about this, but was it not true that 30 days after the 10th of October, there was to be a determination made and then there was four months which would be if we calculate forward something like the 10th of March?

Ms. Browner. We were supposed to enter into the contract for the National Academy of Sciences to develop the short term research plan. We did enter into that contract. Now, we are waiting for the results of that effort to come back.

Mr. Knollenberg. So, when will that be, do you estimate?

Ms. Browner. March 28th.

pm research: funding breakout

Mr. Knollenberg. March 28th. How much money has been obligated internally intramurally within EPA out of this \$49.6?

Ms. Browner. It is all for the Academy's recommended efforts. This is Henry Longest who is the Acting Assistant Administrator for the Office of Research and Development.

Of the \$23 million extra that Congress provided, all of it will be directed to research projects in accordance with the NAS recommendations.

Mr. Knollenberg. Now, this is extramural. I think it is considered outside the Agency and therefore extramural. How much goes to HEI? We have already entered into some.

Ms. Browner. Right; about six.

Mr. Knollenberg. Six?

Ms. Browner. Yes.

Mr. Knollenberg. Let me ask it this way. What is the total amount EPA anticipates for NIEHS?

Ms. Browner. Maybe I can back-up for a second and give you the global answer. This might work a little bit easier. The total enacted operating plan for PM research is \$50 million.

There was a base request from EPA of \$27 million. Congress added \$23 million giving us a total of \$50 million. So, \$23.6 million is being held in the intramural pot. HEI is at

approximately \$6 million. The centers that we are required to fund at approximately \$8 million. RFAs at \$5.6. We can provide this to you.

In addition to the \$50 million for PM research, there is another set of centers that you all earmarked for a total of \$5.2 million. Obviously that is proceeding apace. That was earmarked to places like Johns Hopkins, and Lovelace, and the Jewish Lung Center.

[The information follows:]

PM Funding

The reports that the Academy will be preparing will provide guidance that covers all of the \$50 million Particulate Matter research activities, both long-term and short-term research, and both research that we fund extramurally and research that is conducted intramurally in our EPA laboratories.

cafe program

Mr. Knollenberg. Okay. Thank you.

Since Kyoto, I have seen a great deal of commentary about the impact of the agreement signed, but of course not ratified by the Senate, that directly impacts the auto industry.

There is increased talks about CAFE standards and changing those standards, especially among the light trucks. What role do you see CAFE playing in reducing global warming?

Ms. Browner. We think the CAFE Program, to-date, has been a tremendously successful program in terms of increasing fuel efficiency and fuel economy.

Mr. Knollenberg. You do know that 53-percent of new vehicle sales are not small cars. They are not cars. They are trucks.

Ms. Browner. Under the CAFE definition, that is correct.

partnership for a new generation of vehicles (pngv)

Mr. Knollenberg. Are you going to change it?

Ms. Browner. I think Congress would have to change it. That is in the law. At this time, we are focusing our efforts in terms of automobile efficiencies on the Partnership For a New Generation of Vehicles, which has a goal of a three times more efficient vehicle.

We are working very closely with the automobile manufacturers on that. The President has also included in his budget tax incentives designed to encourage the purchase of more fuel efficient cars.

I believe the first one is a \$3,000 tax credit for an automobile that is twice as efficient. Then it drops down to \$2,000 or it goes up to \$4,000 for three times as efficient.

nuclear power

Mr. Knollenberg. I would like to quiz you a bit on those numbers, but that would take some time. Therefore, in my limited time here, I want to get into nuclear energy.

As you know, Japan is a strong supporter of the Kyoto agreement. There is some justification for their support. Japan

has a thing that greatly advantages them over us and it happens to be nuclear power.

They have some 44 existing commercial nuclear plants. They intend to construct 20 more. A great number of American contractors are over there doing just that. In the U.S. there appears to be no similar plant at all.

In fact, we have 107 plants now. They are not really recertifying a great number of those. So, we are reducing now. You and I both know that nuclear power is clean. If there was anything at all that we could do to increase nuclear use. I believe we may be going down the wrong path if we do not talk in terms of considering seriously nuclear power.

It does not emit any greenhouse gasses. If that is the magic about this whole thing, somehow we have to attack that. I wonder, what is EPA doing, if anything, to encourage the use of nuclear power as a part of this goal to reduce greenhouse gasses.

Ms. Browner. The EPA does not, I think as you are well-aware, have primary jurisdiction over the nuclear industry. That is handled through the NRC. They work closely with that industry and do the evaluations of the existing facilities and the decommissioning, et cetera.

From our perspective, to the best of my knowledge, I think this is what you were saying, there are now no plans within the nuclear industry to build additional nuclear facilities within the United States. I know of none at this point in time.

Mr. Knollenberg. Is there any justification for doing that?

Ms. Browner. The nuclear issue we are involved with is the disposal of nuclear waste. We are responsible for certifying the disposal site and ensuring its long-term environmental safety.

I think all of us have a concern about the fact that, at this time, we do not have a site that has been certified that does meet the standards. We are working on that process. In the meantime, we are seeing the waste stored in facilities that were not designed to store it over a long period of time.

We are committed and have included in our budget funds for us to do our portion of that review. I think it would be penny-wise and pound-foolish. Now, the Department of Energy is also involved with the nuclear issue.

Mr. Knollenberg. We will see you tomorrow.

Ms. Browner. Excuse me?

Mr. Knollenberg. Is it not tomorrow that we see you or is it next week?

Ms. Browner. I will be back tomorrow.

Mr. Knollenberg. Have we already seen you?

Ms. Browner. No. I was here this morning.

Mr. Knollenberg. No. Do you not appear before Energy and Water or you do not?

Ms. Browner. No.

Mr. Knollenberg. We saved you.

Ms. Browner. I am with you guys tomorrow.

Mr. Knollenberg. You are back with us.

Ms. Browner. I am happy to be there.

Mr. Knollenberg. We will revisit this thing tomorrow then. Just in closing, I do think, well, it may be beyond the scope of your administration, of your function.

I think it is interesting that there is no thinking, no discussion about nuclear energy. Frankly, it should be considered as an alternative. France, as you know, gets 75-percent of its power through nuclear.

Japan has over 40%. It is going to rise. We are sitting hovering at 20%. I am not trying to shoot down the folks in West Virginia either about coal. I am just suggesting that we really should look at that.

Again, I thank you for appearing. Thank you very much.

Mr. Lewis. You know, it is out of order, but the Gentleman is making a very interesting point. Sometimes we have in our zeal to find perfect solutions to problems, especially environmental problems, we end up going down pathways that sometimes take us over cliffs.

I am reminded of the drive from Los Angeles to Palm Springs. One day you might have an opportunity to do that. In the old days, we were really interested in alternative energy because things were bad. The mountain sides are filled with these windmills that produce a little bit of energy out there somewhere for the grid, but my God the whole country side is polluted.

Probably we should get some smart people, with these issues behind doors sometimes and talk about nuclear energy. You know, we have gone over that cliff and cut off that option.

Ms. Browner. I think the Department of Energy, as a part of their budget, may have some money for new reactor design and things of that nature. I am not well-versed, obviously, in their budget.

Mr. Lewis. Mr. Price.

animal feed lot operations

Mr. Price. I thank you, Mr. Chairman.

Administrator Browner, I know you are familiar with the problems that North Carolina and other states have had with nutrient pollution in streams and rivers.

You recently proposed stricter regulation of concentrated animal feeding operations as one way to help states respond to this problem. I am proud to say that North Carolina's current standards for these operations, which were arrived at through a long political struggle, already surpass the measures proposed by the EPA. I hope you will look at our experience and the progress we have made when you finalize those new regulations for large operations.

Ms. Browner. With all due respect, if I might just clarify. At this point in time, we have not proposed any standards. We have proposed a draft strategy.

We have laid out how we would hope to proceed in terms of involving stakeholders, looking at the appropriate roles, vis-a-vis EPA and the states. Your state is very actively involved in this. We have not put any standards on the table at this point in time. That will flow from the strategy.

Mr. Price. From the strategy that you have launched.

Ms. Browner. Yes.

Mr. Price. Well, one situation that has brought a lot of this into focus, of course, was last year's outbreak of the toxic form of pfiesteria in Maryland, North Carolina, and Virginia.

Both Maryland and North Carolina have adopted stricter water quality protection requirements, particularly with respect to non-point source pollution. In North Carolina non-point source pollution has had the most negative affect on the Neuse River in Eastern North Carolina.

The state has recently promulgated new basin-wide regulations to help reduce the levels of nitrogen and other pollutants in the Neuse.

How has your agency been working to encourage states like North Carolina and Maryland in their efforts to implement basin-wide initiatives to reduce nitrogen and other water pollutants? Could you expand on how EPA's role in such activities will change under the Clean Water Action Plan?

Ms. Browner. We have been providing money through the traditional Clean Water grants program, Section 319, and other programs to the states. We have also provided pfiesteria research money to North Carolina and other states that have experienced that particular problem.

Under the President's Clean Water Action Plan, we are requesting an additional \$145 million of which \$120 million would be made available to states and tribes for and watershed planning, and watershed implementation to address non-point source pollution problems.

Mr. Price. Now, as you assess the needs for this support, to what extent do you expect to focus on areas where pfiesteria has been a problem?

Ms. Browner. We will be working with all of the states. Obviously for states where pfiesteria has been a problem we will concentrate on the problem. In other parts of the country, algae blooms, for example, have been a problem.

We have had a host of challenges. I would imagine that in states with pfiesteria concerns, they will rank those watersheds higher. It will be up to the state to make that decision.

Having visited with your Governor and Governor Glendening, and Governor Gilmore briefly on these issues, I would imagine they will be ranking those watersheds higher, but it will be up to them.

Mr. Price. It will be a matter of state determination.

Ms. Browner. The states will be looking at which watershed is experiencing the greatest challenges; which ones need the highest concentration of effort.

Mr. Price. Well, to what extent will EPA have the discretion to focus on areas of particular concern and particular need?

Ms. Browner. We work with the states to determine that. It is a real partnership between us and the states.

food quality protection act (fqpa)

Mr. Price. All right. The Neuse Initiative, of course, is relatively new. It has not, to this point, had a great deal of federal support. Clearly, it is an area that warrants

concentrated attention.

We are very encouraged with the initiative that is underway just this year. It would seem to me that any national strategy under the Clean Water Action Plan ought to give attention to this problem.

Let me turn briefly to the implementation of the Food Quality Protection Act. I would like to hear your assessment of how the implementation is going with that, including any problems you have encountered and whether the resources provided to you are sufficient for the task of meeting the Food Quality Protection Act's goals and deadlines. If you have a general comment, then I have a couple of more specific questions.

Ms. Browner. No. Why don't you ask your specific questions.

Mr. Price. All right. Dangerous products and uses should be eliminated as quickly as possible, when we identify ones that do not meet the new standards.

The organophosphates have been identified as the class of pesticides posing the most concern. I commend you for focusing on these pesticides first.

Along with the duty to remove unsafe products, the Agency also has the responsibility to bring new and safer products to growers as the older less safe products are phased out.

Any gap between de-registering products and new registration of their safer substitutes will put a squeeze on many family farmers and other farmers who survive on very thin margins.

That is what I would like to ask you to focus on just for a moment. I am concerned that perhaps you have concentrated on that first task, eliminating the less safe, existing products without providing sufficient attention to the latter task, which is registering new and safer products.

Tell me if this is right. I am told that it takes 22 months for the EPA to approve a new reduced risk product and as long as three or four years for routine new product approvals. This, of course, is of concern to farmers of major crops like corn, rice, cotton, and is perhaps of even greater concern to minor crop farmers.

Ms. Browner. By reduced risk pesticides, I think you are referring to bio pesticides. We give priority attention to these safer alternatives and have cut the review time down to an average of 14 months compared with 38 months for the more conventional pesticides. We have also made progress, registering new products under the new law. I can give you sort of a first year accomplishment.

We registered 28 new active ingredients, made 90 tolerance decisions, and had 422 Section 18s. I mean, we believe we are responding in an appropriate time frame to the industry when they bring us a safer alternative, or when they bring us a new product registration, or a new amended use registration. In the last one--in FY 97--we did 3,560 amended use registrations.

Mr. Price. These new products that have been approved, are they primarily biological products?

Ms. Browner. Of the 28 new pesticides, 15 were bio pesticides, and 4 were reduced risk chemicals. That does not add up to 28. This is Dr. Lynn Goldman, the Assistant Administrator for the Office of Prevention, Pesticides and

Toxic Substances. The rest of them were conventional?

Ms. Goldman. Conventional.

Mr. Price. Conventional chemical pesticides.

Ms. Browner. Yes; conventional.

Mr. Price. I wonder if you can elaborate on those figures you just gave and maybe provide the Committee with a detailed review by product and month of your new product reviews over the past year?

Ms. Browner. Certainly.

[The information follows:]

[Pages 131 - 133--The official Committee record contains additional material here.]

Mr. Price. I think that will be very helpful to us.

Do you think there is anything to the complaint which I have heard from time-to-time that pressures for dealing with existing products are draining resources from new product reviews? Is there anything to that at all? Is it a problem that you have felt any need to address?

Ms. Browner. I think that, as is always the case with a new law, you need the start-up time. You have to figure out how to do things differently based on the new requirements and the law.

So, there is some start-up time. In terms of the new products, the registration of new pesticides, we are now up and running. We have that program going. It will just improve from here with time.

I want to be clear that any time you get a new statute, we need the time to get everything organized the way we are supposed to be, and we did that.

In terms of the issues of review of existing tolerance is where I think you are hearing something, there, in particular with respect to the organophosphates, we were told by Congress specifically to look at the common mechanisms of toxicity.

In other words, look at a group of pesticides that work in the same way. In the case of organophosphates, they work on the central and peripheral nervous system of the bug. So, we are doing that.

I think you would agree that this is something that is going to demand a lot of stakeholder participation. We are looking at how best to ensure that and what kind of approach we should take to ensure transparency in stakeholder participation.

fqpa: review time

Mr. Price. Well, back to the question of the review times. You are telling me that the average review time for the new reduced risk product is now 14 months?

Ms. Browner. That is correct; for the biological, right.

Mr. Price. For the biological. Overall, what would the figure be? Twenty-two months has been suggested.

Ms. Browner. That is fairly close as an average. Fourteen months is the average time for a reduced risk pesticide.

Mr. Price. And for routine new product approvals, three to four years has been suggested as the average review time. You said 38 months. Is that right?

Ms. Browner. Yes, for conventional.

Mr. Price. Do you realistically expect those averages to be reduced?

Ms. Goldman. I am Lynn Goldman. I am Assistant Administrator for the Office of Prevention Pesticides and Toxic Substances. The average review times have decreased very sharply over the last five years.

We used to see an average time of between five to six years for any new chemical registration. We are now down to anywhere between one year, in the case of a biological, to about three years for a conventional chemical pesticide.

This is an improvement over the past, but we think we still have room for further improvements. We have worked within the program to make the data requirements clearer to the companies.

We have worked with the companies to ensure that the packages that come in are acceptable at the very beginning. We used to have up to about 30 cycles per review; 30 times a package would come in and would go back out.

We now have about five cycles per review; five or six. That is still an unacceptable number of review cycles. We still have a way to go. Our efforts to reinvent the process have been effective. We are going to continue to do that.

Mr. Price. Are you satisfied with the transparency of that process; the understanding on the part of all concerned as to what they need to do, where the data is coming from, and what kind of data needs to be furnished?

There is some frustration, as you well know, in the grower community with a perceived lack of transparency, in the review both of existing and new products. Are those problems that in your view need further attention?

Ms. Browner. We believe that the pesticide companies understand the data requirements, but that we have much to do to make the whole process more transparent to the growers and other pesticide users and also to consumers and the public interest groups who are concerned about the process.

We have a lot to do to make the process more transparent for all of the involved parties.

Mr. Price. With respect to, the review of existing products, is it true that no notice and request for public comment has been published on this process?

Ms. Browner. Several notices have been published. We published in January of 1997 a notice that lays out the kinds of information that we need to do a registration.

Mr. Price. When was that done?

fqpa: review process

Ms. Browner. January 1997; a notice to all of the pesticide companies. Then in the spring of 1997 we published two things: we published a plan for the tolerance reassessment process. We also published a complete implementation plan for the act; all of the steps that we are going through to implement the act, including advisory committee processes, science review processes, and FACA processes that are public. In August we

published a plan for the tolerance reassessment process.

Those committees have not only met, but documents that we have prepared, such as the science policies, which deal with how we are going to review data, have all been placed in the docket prior to those meetings.

They have been publicly available. In fact, we have had a lot of participation, probably again better from the chemical companies than from some of the other stakeholders. I think that we still need to get more involvement from the farming community.

Mr. Price. All right. Well, it is at least a perceived problem. I certainly would welcome suggestions from you in terms of this committee's work on how we could help address the problem of a perceived lack of transparency in the review of existing and new products.

Ms. Browner. Actually a California farming group of representatives recently raised this issue too. We would appreciate any advice the Committee or Members may have on how to better involve the farming community.

We are doing great in terms of the chemical companies, but that is one piece of the universe. There is the user community out there. It is a community that is a little bit more difficult to access than the chemical companies.

They have all got lawyers here. So, we appreciate any advice that people have on how we might improve our communication. We actually had a very productive meeting with some of the California growers. They had some thoughts. We are going to be following up on that, but other thoughts would be helpful.

Mr. Price. We look forward to hearing from you.

Mr. Lewis. Mr. Price, it occurs to me that the point you are raising is an important one. There are organized groups who represent farmers around here who have lawyers who are addressing the question quite the way we would. So, we might talk about how we can communicate with them and encourage them.

Ms. Browner. Not to belabor this, but one of the issues is what a chemical or what a pesticide is allowed to be used for.

Then there is what actually happens out in the field. Now, hopefully both are the same, but sometimes the farmers are doing something within the allowable use, which is a little bit different than the manufactured use.

That kind of information is invaluable to us. It, quite frankly, has to come from the farmers. It turns out, for example, California has very good information in that respect. Other states do not. Perhaps there is a way to use their process to provide us with some of the practical real use information.

Mr. Lewis. Absolutely. We need to know how the products are actually used so that we do not necessarily assume the worst case scenario; assume the most polluting sort of use.

I am sure it is true in other places, but a marriage has been long established between the farming community and the University of California-Davis, the University of California-Riverside, et cetera, and I know that is true elsewhere. The amalgamation of sources is interesting.

Well, Mr. Frelinghuysen.

coal plant use in the midwest

Mr. Frelinghuysen. Thank you, Mr. Chairman.

I made a passing shot at Mr. Mollohan as he left saying that I might salvage the coal burners; what they are doing to their clean air in the Northeast in his absence.

I would like, Madam Administrator, your view of the recent analysis published by the Northeast States Coordinated Air Use and Management Group that found that since deregulation of the wholesale power market, utilization of these grandfathered coal plants in the mid-west has increased.

Have you read that report? Would you agree with those findings? How can we ever comply if it is difficult enough to comply now? We have all of this air coming down and suffocating us in the northeast.

I am sure Mr. Mollohan will rise up at some point, Mr. Chairman. Administrator, for the public good, would you make some comment on that issue?

Ms. Browner. We have data suggesting similar results, if you will, or similar increases. I do not know that we have completed a thorough review of that study per se. We share the general concern raised by that study.

brownfields: ppas

Mr. Frelinghuysen. Well, it was one of four or five states that wants to comply with the Federal Clean Air Act. Life is made a lot more difficult by not standing the tide of all of this garbage that goes way up into the atmosphere and comes over towards the northeast.

We will be watching you as carefully as some of those coal burning states will be watching you. We appreciate the work you do. I want to get back, just for a second, to an issue I raised earlier on brownfields.

It was a little bit confusing to me in your response relative to the issuing of comfort or status letters or prospective purchases agreements. The term in your budget page 39 was ``in appropriate instances.'' I want to know what that term means.

Ms. Browner. There are two different things. Maybe we can sort this out.

Mr. Frelinghuysen. I know there are purchaser agreements which are contracts.

Ms. Browner. PPAs, right.

Mr. Frelinghuysen. Then there are comfort letters. I understand from some of the authorizers that this is one of these liability issues that people are not able to get their hands on.

Therefore, you have used the term ``in appropriate instances'' to sort of give yourself some more flexibility. What does that term mean?

Ms. Browner. It does mean that there may be instances where a prospective purchaser agreement is not appropriate.

An example is a sham movement of property to try and suggest that the prospective purchase had nothing to do with the prior contamination, but in fact did have something to do with the prior contamination.

Mr. Frelinghuysen. So, what you said earlier was rather positive. That you had actually worked a lot of things out with the financial institutions and the banking industry, but in some instances you are leaving yourself some ability to cover yourself.

Ms. Browner. Where there is inappropriate behavior, where there is the appearance of perhaps illegal behavior, no one appreciates us condoning those kinds of activities where people are making sham property transfers to avoid appropriate liability, where there are incomplete assessments of the problem.

This has to be done to be fair to all of the parties, in accordance with a set of procedures. We are more than happy to provide that.

We could also give you the ones we have entered into and show you what the terms of those have been. We could also try and give you those where, for various reasons at this time, we have rejected the PPA request.

Mr. Frelinghuysen. I would be interested in seeing some of those. Thank you very much.

[The PPA requests follow:]

[Pages 139 - 164--The official Committee record contains additional material here.]

pm monitors: state cost share

Mr. Frelinghuysen. Relative to clean air; while the President's fiscal year 1999 budget request for EPA is growing by 6-percent, state 105 Grants, known as Section 105 Grants, to implement existing Clean Air Act Programs are declining.

My state, New Jersey's, fiscal year 1997 was cut by 12-percent from fiscal year 1996 levels. The fiscal year 1998 grant was cut an additional 5-percent.

However, the state is required to maintain the same level of matching funds year-after-year, regardless of the decline in federal funding. Could you explain the overall decline in state grants?

Ms. Browner. First of all, the overall amount of money that we will provide or spend on behalf of the states is going up. Let me explain what I mean by that.

Under the Clean Air Act, the states are required to cost share for the purchase of monitors. It is a 60/40 split. We are not seeking that 40-percent cost share from the states for the PM monitors for the country.

The PM 2.5 monitors for the country are going to cost almost \$100 million, \$98.3 million. So, the state's share would have been \$40 million. We are not going to require that \$40 million from the states.

We are providing for that in the EPA budget, not from the states. So, I understand that they look at one line and they see an adjustment, but I think you have to step back and look at the picture as a whole. What you see when you look at the picture as a whole is in fact more money being spent by EPA on behalf of the states to honor the Clean Air Act.

Mr. Frelinghuysen. So, on the issue, many of the states talk about the flexibility issue. You are actually giving them flexibility by not having to come up with as much money. So, they have a degree of flexibility.

Ms. Browner. Yes, yes. Congress is essentially saying to the states that we are going to pay 100-percent. The states could have been required to pay \$40 million. Based on what Congress and the Administration have done, the states will not pay that \$40 million. That is a lot of money.

performance partnership agreements

Mr. Frelinghuysen. Sure is. Federal and state partnerships; I want to discuss for a minute the National Environmental Performance Partnerships.

As you know, these partnership agreements negotiated between the EPA and the states are a new way to plan and measure the success of environmental efforts and programs.

The program system provides mechanisms for states to prioritize environmental activities based on jointly developed environmental goals tailored to each state.

This program also provides the public with a greater ability to participate in environmental decision making since they have become more aware of state environmental conditions and trends.

New Jersey is one of the first six states to negotiate a performance partnership with the EPA. In 1995, Governor Whitman was the first governor to sign an agreement on behalf of the State.

There are now 38 States I understand voluntarily participating in some aspect of this new national system. Needless to say, we support the endeavor and have enjoyed working with you.

My first question is if this program is intended to provide the frame work for an environmental management system based more on environmental results with a true sense of partnership between the EPA and States, to what extent have we begun to realize the intended benefits? Are you pleased with the rate of progress?

Ms. Browner. Yes. In fiscal year 1997, we actually had a total of 47 States participating. We anticipate we will hit 47 or more for fiscal year 1998. We are very excited.

I think the large number of States participating is a testament to how much they appreciate this flexibility. I think everyone is happy with this.

If someone was unhappy, that would be news to us. You should tell us and we will go talk to them. I think the high level of participation demonstrates the great success.

Mr. Frelinghuysen. During the partnership negotiations between the States and the EPA, many States, including mine, suggested to the EPA that certain State reporting requirements are no longer useful or are not providing any environmental benefit.

In some instances, EPA's response is that certain reporting requirements are required by Congress and cannot be eliminated or changed. Is this true? How can we work with you to identify some of those requirements?

Ms. Browner. We have a very large effort underway. Many States are participating. One is the one-stop reporting effort through our Reinvention office.

The goal to streamline all of that. At this point in time, we would not, I think, make any recommendation to Congress in terms of changing any individual law.

We may come to that at some point in the future and in that case we will be back up here. At this point, we believe we can work within the existing law.

Part of this involves taking advantage of where we find ourselves in the information systems of today. It is modernizing practices of the last 25 years for the way we move information today.

It has been a large undertaking by both us and the States. Quite frankly, some States are better able to undertake it than others. That is a part of the challenge we face.

Mr. Frelinghuysen. Relative to the issue of information dissemination, what plans does your agency have to assure that the States have that capacity to collect, interpret, and disseminate critically important environmental results information?

Ms. Browner. Through PPG, they can target that as an area of priority for them and use resources accordingly.

Mr. Frelinghuysen. Thank you, Mr. Chairman.

I have a few others for the record as well.

Mr. Lewis. Thank you, Mr. Frelinghuysen. Mr. Stokes.

center for environmental information and statistics

Mr. Stokes. Thank you, Mr. Chairman.

Madam Administrator, last fall the National Academy of Public Administration issued a major report titled ``Resolving the Paradox of Environmental Protection.'' Many of its recommendations are echoed by the E4E Report.

One of NAPA's specific recommendations is that EPA should reconstitute its Center for Environmental Information and Statistics outside the Office of Policy, Planning, and Evaluation and endow it with the stature, independence, and resources to develop and maintain a national monitoring system that will produce objective, credible, and reliable data.

Although the report does not mention it, a model for this could be the Energy Information Agency which is constituted as a separate entity within the Department of Energy.

It has come to be recognized as a source for energy information used by all involved parties. First, do you agree with this recommendation? If so, why does the Agency not do more to implement it?

Ms. Browner. Just to make sure I understand, the analogy to the Energy Information Agency, that was actually created by Congress. Within our existing resources, and within existing statutory authority, we looked to create a center; a one-stop shopping, if you will, for environmental information and statistics. What is far more important to me is making that happen than where it is housed in the Agency.

We collect huge amounts of information from the States, from local governments, and from regulated parties. We are streamlining it and it is still huge amounts.

It should be information that is available for those who want to understand environmental conditions and public health consequences. That is what is really important here. It is getting it into a usable data base for any who want to access it.

fqpa: organophosphates and carbonates

Mr. Stokes. Let me come back now to an area that I got into an area I got into peripherally this morning. I did not get time. I was skipping around a little bit trying to get in several different questions. I had asked you some questions relative to the Food Quality Protection Act of 1996.

The next question I wanted to ask was why has EPA elected to consider organophosphates and carbonates first? I will ask you whether you will give the Committee some exhibit of these pesticides and their use and how people are exposed to them.

Ms. Browner. First, under the requirement of the new law, we are required to look at aggregate exposure and at chemicals that rely on a common mechanism of toxicity. In the case of organophosphates, the common mechanism is to attack the central and peripheral nervous system.

The issue and the exposures in terms of the public health protection, vis-a-vis organophosphates, include dietary, household use, and drinking water. Those are the three that we are looking at and collecting data on.

No decision has been made with respect to the organophosphates. We are in the very early phases of looking at how we would proceed and what the stakeholder process would be. But we are required under the law.

We think that makes sense. We think that was a very sensible thing that Congress did and it had broad bipartisan support. If you have two products on the market and their common mechanism of toxicity is identical, then do those reviews together.

We do not want to replicate the effort over and over again. Where that ultimately leads is not resolved at this point in time. We are simply beginning the process, articulating a strategy of how we would proceed. It is a game plan, if you will.

The thing to remember about organophosphates is if they work that way on bugs, then they arguably have a similar way of working, whether or not it is on humans. The effects can be of a similar nature, obviously not as bugs die. We are not suggesting that.

Mr. Stokes. It is relatively final.

Ms. Browner. Yes.

carbon dioxide emissions

Mr. Stokes. Let me go now to an area that you had considerable discussion on with one of my colleagues this morning. I think I would like to pose a question or two to you in that area, perhaps from a little different perspective.

There appears to be a growing body of evidence in the scientific community. The earth's climate is warming and will continue to do so unless levels of carbon dioxide resulting

from extensive use of fossil fuels are reduced.

Although analysts may disagree on future amounts and timing of additional carbon dioxide loading in the atmosphere, is there not general agreement that concentrations of CO₂ have been rising fairly steadily since the advent of the Industrial Revolution?

The research performed by Professor Keeling has shown that carbon dioxide concentrations have increased from just over 300 parts per million, 40 years ago, to 362 parts per million today.

Ms. Browner. Yes, yes.

Mr. Stokes. That is correct.

Ms. Browner. Mr. Stokes, if I might just add, every ton of carbon we put in the environment in the air today will be there 50, 60, 70 years from today. That is a very long after life. It stays up there for a very, very long time.

Mr. Stokes. It is my understanding that when the corporate average fuel economy standards were developed years ago, special consideration was given to light trucks. The thinking at the time was that there were not too many such trucks.

Many of them were used for farm work, not highway and city driving. Then, of course, obviously things have changed. In responding to drivers' wishes for larger, potentially safer vehicles and recognize the existence of abundant supplies of relatively inexpensive gas, domestic and foreign makers have flooded the markets with mini vans, light trucks, and sport utility vehicles.

Some estimates indicate that nearly one vehicle out of every two falls into this category. For the most part, these vehicles weigh more, pollute more, and use more energy than other vehicles. Is the Agency and the Administration concerned about the growth in the number of these vehicles?

What, if anything, are you doing or do you propose to do in response?

Ms. Browner. Two things. When you think about the challenges that face us with respect to climate change, the emissions we are concerned about fall into roughly three categories, transportation being an important one.

Another one is manufacturing and the other is office and household use. That is the general way to think about it.

Within the transportation sector, the President's budget includes two important provisions. One is funding in the EPA budget for the Partnership for a New Generation of Vehicles, a cooperative venture between the automobile manufacturers and federal agencies to develop a three times more fuel efficient engine.

The President has also included in his budget a tax incentive package which will become available in three years. It will be to a consumer a tax credit for the purchase of a car that is twice as efficient as cars today in a similar category.

So, there are in the President's five year \$6.3 billion climate change proposal a number of components that focus specifically on the transportation sector, using positive market incentives and economic tools to stimulate the development of the new technologies that will be necessary.

Mr. Stokes. Let me ask you a question about an area that I think we touched on lightly. I would like to try and get a little more detail from you on it.

Your statement indicates that in cooperation with the Department of Health and Human Services, EPA intends to establish six children's environmental research centers. The reason I am delayed here is because I am next door with the NIH and other Health and Human Services people. I wanted you to tell us a little more about this effort, including the cost sharing arrangements with HHS, the selection and location of the centers, and the areas of specialization of the centers, and any use of any non-federal resources.

Ms. Browner. The current funding levels would have an equal match between EPA and HHS. It is \$5 million each for a total of \$10 million. EPA and HHS have received approximately 30 applications for these centers.

We are currently reviewing these external peer reviews and they are ongoing. We would hope to select the centers at some point this summer. We think this is going to be a tremendously valuable part of our effort to ensure that when we set public health and environmental standards, we take into account particularly the children.

brownfields

Mr. Stokes. One of the things I did was ask you a couple of questions about, or at least a question about, is the brownfields efforts. As you know that is something that has been very important to me and Cleveland.

Of course, Cleveland has been one of the lead pilot cities in that effort. Last year you began the effort between HUD and EPA. Can you talk about it a little bit and give us some feel for where we are and what we are doing?

Ms. Browner. One of the efforts with HUD has focused on our showcase communities. It is an Administration-wide effort and has been hugely successful. I think that the first round of applications had to be narrowed down to 40, out of which something on the order of a dozen or so will actually be selected.

So, that just gives you sort of a sense of how many communities were interested in participating in this effort of bringing together EPA and HUD. We will be announcing those in early April and getting those communities up and running.

We continue to have a tremendous amount of success in our grants program in the EPA pilot assessments. Just as you mentioned, the Cuyahoga Community College has just been incredible. We are very, very pleased with that.

Mr. Stokes. I am glad to know that things are progressing very well. How many of your brownfield sites nationwide have received assistance from both HUD and the EPA?

Ms. Browner. We may have to respond for the record. I can tell you how many we have provided. If we could respond for the record, because we are going to have to talk to HUD. Can we respond for the record?

Mr. Stokes. Sure.

[The information regarding brownfield sites follows:]

minority business

Mr. Stokes. If I can have another moment or two, Mr. Chairman. One of the areas that you and I have always spent a great deal of time on is areas related to diversity; particularly with reference to the Agency's approach to employment diversity, as well as seeing that those who do business with the EPA also reflect diversity.

Bill Finister who has just left and who I think is probably one of the finest public servants I know----

Ms. Browner. Agreed.

Mr. Stokes. Bill was scheduled to meet with me on two different occasions and on both occasions those meetings were canceled because of other reasons. So, we have not had a chance to get the kind of a briefing from him that I want.

I understand he has now left. If you can talk about this a little bit for me and if you will supply me some information in the record, I will appreciate it. Let us talk about some of these areas.

Ms. Browner. You and I, as you have said, discussed this many times. There was a goal that we have set of 8-percent Federal assistance in terms of minority and women-owned businesses. In fiscal year 1996, we awarded 11.6-percent of our dollars to these businesses.

So, we have significantly surpassed the 8-percent goal. Obviously, it is our intention to continue those efforts and to see that further expand. It is something we have to remain vigilant at. As you know, we have set up a number of processes within the Agency to ensure that we were doing this. We will continue to do that. I think we have made some real progress, thanks to your assistance and oversight.

minority employment at epa

Mr. Stokes. In terms of the personnel.

Ms. Browner. In terms of the personnel, we have also made some progress. I think that one of the programs that we are talking to you all about funding this year is the Post-Doctoral Program, which will be another opportunity for us to reach out to minority post-doctoral students and bring them into the Agency for a three-year program and show them what the Agency has to offer.

Hopefully, we will then look to them for long-term employment. We are continuing our outreach efforts at HBCs. Again, it is something that we have to remain vigilant at.

It is not something that is simply solved in the course of months or years. It means being out there and actively pursuing minorities.

Mr. Stokes. What about SES positions?

Ms. Browner. SES positions, we now have 17 African-American SESers; 12 male and 5 female.

Mr. Lewis. What about in the hires?

Ms. Browner. In the hires, we hired three minorities into the SES as of February 14, 1998.

Mr. Stokes. If you will just expand upon all of this for me in the record, I would appreciate it.

[The information follows:]

SES Positions by Race

EPA has 17 African-American SESers; 12 male and 5 female. As of February 14, 1998, we hired three minorities into the SES; an Asian male, an African-American male and an African-American female.

Mr. Stokes. I appreciate your remaining sensitive to and responsive to my concerns in this area. We can provide Asian Pacific, Hispanic numbers.

Ms. Browner. Thank you.

Thank you very much, Mr. Chairman.

Mr. Lewis. Thank you, Mr. Stokes.

Ms. Browner. We have the HUD information if you would like for us to provide that now.

Mr. Stokes. Okay.

Ms. Browner. Forty-seven of the 121 EPA Brownfield pilot communities have received some assistance from HUD through EZEC.

Mr. Stokes. Okay. If there is anything further on it, then just provide that for the record for us please. Thank you.

salton sea

Mr. Lewis. Ms. Browner, one of the most important environmental problems, as well as potential projects in the country is getting a good deal of attention as a result of a crisis in the west.

The Salton Sea has come into focus in a special way. It is a challenge that we have been talking about dealing with for decades it seems. It continues to go unattended, let alone ill-attended.

It is suggested that if we wait five years to try to begin to solve this problem that the Sea will be all but dead and it would be too late to solve the problem. I think your people are somewhat familiar with that history.

A project is beginning to move forward that would have us look at several alternatives ranging from a dike alternative, which is apparently the least costly.

It essentially would cut off a section of the sea and pump out high saline content of some form, all the way to an international project that would recognize it, and flow from the new river that comes across the Mexican Border, a significant factor.

At any rate, I am very interested in your comments now about the Salton Sea and any discussions you may have had. Then from there, we will be talking about a good deal more I am sure as the months go forward.

Ms. Browner. I share your concern about the Salton Sea. I have had an opportunity to become better informed. It is a

large undertaking and a large challenge. It may well be one of the most significant problems we have faced in recent memory.

Obviously, we are all familiar with the temperatures in the Delta and the Everglades. Those are areas where activities have been ongoing for some time as compared to the Salton Sea. Secretary Babbitt did establish an Interagency Management Committee which I think you are aware of.

Mr. Lewis. Yes.

Ms. Browner. We are a part of that. We are on the Science Committee which holds its first meeting on March 24th. We will look forward to that and to how we can best facilitate all of that.

We do have the dollars that were provided to us in the appropriations process. We will be disbursing those in the next several months. In the budget before you, and there may be additional things we should focus on.

I can tell you what is in there now based on what we know. I think all of us are learning as quickly as we can. We do have money in here for construction of Mexicali I and II which should be beneficial.

There are some smaller projects focused on untreated wastewater discharges into the New River which should also help. We have funding for an evaluation of an evaporation basin to help address salinity.

We need to hear from people what else we should be evaluating. I think we are all learning very quickly here and trying to gather all of the necessary information.

Mr. Lewis. Let me mention, just for the record, so that you can think about this. Within the proposed legislation which has been introduced and will begin to go forward from both bodies, there is a proposal for a consortium of universities to help us evaluate where we have been with all of this. There have been a dozen or so studies done over the years and a lot of money expended there, but nothing ever resulting.

So, they essentially are given the responsibility, we hope, through some of this initial funding to focus upon all of those recommendations and maybe help us synthesize that and give us some direction.

There is a Salton Sea Authority which is a long-established, more localized kind of interest out there who are resisting such outsider independent evaluation. I would ask you to focus on that a bit.

Ms. Browner. Okay.

Mr. Lewis. Because there is a broader picture than just the already established interest. It is an item before us. I must say, looking beyond that localized approach might end up costing us more money over time, but it also might solve different problems, too, over time.

Ms. Browner. I apologize for asking you a question, but has the Administration been asked to review the legislation?

Mr. Lewis. I cannot answer that question, but they certainly should be asked. We would ask you to carry that back as a matter of fact.

Ms. Browner. Okay. We will do that.

Mr. Lewis. If it is not already being done.

Ms. Browner. Okay.

reporting requirements: paperwork burden

Mr. Lewis. We talked about information and volumes of information just awhile ago. Another side of the broad issue of information management which deserves I think an extended discussion is how the gross of information gathered by the EPA has impacted the Agency itself, as well as the businesses from which the Agency collects information and use it.

It is fairly well-understood that EPA is among the Federal government's most active collector of governmental and business information, ranging from emissions of pollutants into the air to levels in amounts of pollutants in industrial, commercial, and municipal waste water discharges, to the quantities of hazardous waste and the byproducts generated, stored, recycled, treated, disposed of, and industrial and commercial facilities.

In 1994, businesses and state and local governments filed more than 4.5 billion reports required by 308 different EPA reporting requirements. According to EPA estimates, these reports required almost 86 million hours to complete.

According to the General Accounting Office, this annual paper work burden associated with EPA reporting increased over 177 million hours by the end of fiscal year 1996. That is a lot of hours.

In terms of what this has meant for providing annual appropriations, spending for such information gathering in fiscal year 1994 amounted to between \$50 million and \$100 million, by our calculations.

About \$25 million of this was for right to know programs. For fiscal year 1998, that number has grown to nearly \$400 million, of which about \$200 million is for right to know.

Although the new 1999 budget justification format makes it somewhat different to determine the precise corresponding numbers, our best guess is you are requesting about \$450 million for such information gathering this coming fiscal year under the specific strategic plan goals of water, pollution prevention, global, cross boarder, and right to know. We have already discussed how the collection and use of such information through the Internet poses significant national security and economic questions.

We are looking at in this regard has to do with reporting burdens and the quality of the information collected and maintained by the Agency.

More specifically, EPA does not appear to have a comprehensive inventory of health, safety, and environmental information that is currently reported by business, governmental, and tribal entities.

Yet, EPA continues to expand reporting requirements and has active environmental advisory groups engaged in identifying ``data groups.'' More reporting and more expense with little, if any, improvement of information management might be that conclusion. Reports indicate that data quality, for example, requires great attention.

Errors regarding industry performance necessitate expedited corrections through an efficient error correction process. Yet, it is my understanding that no such process exist.

In addition, it is incumbent on the Agency to see that information is presented in a meaningful context so as to avoid

public misinformation.

Finally, it is obviously important for the Agency to provide proper information and stewardship. Yet, not only has the EPA Inspector General reported that computer security was wholly lacking, as I indicated earlier, but even EPA has admitted to the loss or mismanagement of hundreds of product registration files that were claimed confidential by the businesses involved.

Just as before, I have numerous questions which I would like to have you respond to for the record. Initially, however, could you please tell the Committee whether the Agency has a comprehensive list in one place of all the information it collects?

In other words, could you go to one resource and find out what information EPA is collecting, from whom, and at what frequency?

reinventing environmental information program

Ms. Browner. Well, a part of the problem, as you well know, Mr. Chairman, is we function under a variety of laws that have a variety of requirements in terms of the information we should collect. We are in the process, through our Reinventing Environmental Information Program, REI, of looking at where we can streamline the reporting, where we can rely on reporting received perhaps under one statute to meet the needs of another statute.

This is no small undertaking. It is important to understand that we have already reduced the burden on the regulated community to fill out forms by over 20 million hours.

toxic release inventory (tri) program

Many of the increases that you pointed to in the course of the last year or two have been in the TRI Program, the Toxic Release Inventory Right to Know Program. It is true, we have asked more companies to report about more chemicals that they are releasing.

We have also established an easy reporting system. We now actually will have those reports on floppy disks. That is also the case in the NPDES Program, the reporting and the permitting program for pollution discharge point sources into waters.

There, we have a program where we have what we call ``good actors.'' Those who have routinely been in compliance with their requirements can report less frequently than those where we have an ongoing set of problems or an ongoing set of questions, if you will, violations in some instances. So, we are engaged in this effort.

Part of the challenge is the fact that we do operate under so many different statutes that lay out so many different requirements. Merging them into a whole is not without its need for a comprehensive effort.

Additionally, states, in some instances, collect a whole other set of information. So, we have engaged with the states to see how much we can rely on what they have, and how much they can rely on what we have.

sector facility indexing program

You raised a long list of issues for which we would love to respond to for the record. But this issue data accuracy that you raised is an issue that has come up in our Sector Facility Indexing Program.

This deserves a lot more discussion, but the short answer is that this information is provided to us by the regulated facilities.

If they have reason to believe there is something wrong with what they are giving us, then I think we would all agree it is incumbent on them to verify their information before they pass it on to us.

I think we have an equal burden to ensure when we take that information, in whatever format, we make it available to the public in an accurate manner. It is their air and water. A lot of the questions that have come up have to do with some in industry saying, yes, but perhaps what they have been given was not accurate. Well, we do not generate the data. We get it from industry. They deliver it to us or they deliver it to the states who deliver it to us.

So, there is a lot of effort underway here. We will be more than happy to give you a detailed explanation for the record.

Mr. Lewis. My constituents might say you have got to do a better job of picking out who you are asking questions of; whether they have got accurate information. In other words, you cannot really just lay it off on somebody else, I do not think.

Ms. Browner. Not completely, and we are not trying to do that. The regulated industry is responsible for monitoring their air emissions and giving us that monitoring data.

Mr. Lewis. My question was, you do have one central source or one location where we can access information?

Ms. Browner. We are continuing to develop that.

Mr. Lewis. As you were initially responding to that question you indicated that there were more hours, not fewer hours of reporting.

Ms. Browner. Well, I think in some programs, for example, the Public Right To Know Program, you are correct. The public is getting more information. We would not in any way suggest that we think those are unwarranted hours. It is the public's air and water. They do have a right to know.

Mr. Lewis. One of our difficulties that you have heard me wax before about how important it is that we address the environment. It is a segment of our public interest that is very, very significant and important.

Over the years, often times voices dominate the debate. So, the great people in the middle kind of lose confidence and interest otherwise.

I think sometimes when we over do or overload the requirements and requests, we lose a big piece of the population, as well as our own credibility. I just urge us to be cautious about continuing to expand that volume of flow and so on.

Does EPA have an inventory of all of the information resources, public documents and software tools that it has produced, endorsed, or funded over the years?

Ms. Browner. This is Al Pesachowitz, the Acting Assistant

Administrator for Administration and Resource Management.

information systems: public information

Mr. Pesachowitz. I am Al Pesachowitz, the Acting Administrator for Administration and Resources Management. We do have an inventory of all our systems where we collect data through automation or store data through automation.

We also are participating in the Government Information Locator System which provides information as to where you can find the majority of information at EPA.

Mr. Lewis. Stay right there for just a moment. My next questions may be for you. How are the Agency's information resources being managed? Who at the Agency is responsible for the overall quality and integrity of EPA information resources?

Mr. Pesachowitz. I am also the Chief Information Officer for EPA.

Mr. Lewis. Okay. Who at EPA decides what does and does not go on the Internet? What standards, information, quality in the context of such decisions?

Mr. Pesachowitz. Our current policy is that a division director has to approve what information goes on the Internet for EPA.

The Administrator asked about a year ago for us to take a special look at how the Internet is designed. We went back in and redesigned our Internet so that it is user-friendly.

We are also undertaking an effort to review those documents that are on the Internet to ensure that they are not old documents and whether they should not be purged from the system.

Mr. Lewis. You have heard the questions earlier about our concerns about terrorism and so forth. Since the Agency has emphasized the importance of the public's right to know, what steps are being taken to obtain an understanding of the priority information needs of the average citizen?

How much, if any, research and analysis the public needs has EPA conducted? How much have you spent on those efforts?

Mr. Pesachowitz. I cannot answer probably the last part of that. Although our Center for Environmental Information and Statistics, as well as my own office have undertaken a number of focus group meetings with the public to try to determine public need for information and the extent of that need.

We get about 20 million Internet hits per month now on our Internet site. So, it is an indication that there is a great deal of interest in the environmental information.

Mr. Lewis. Are these from groups or environmental activists?

Mr. Pesachowitz. It is the general public. We do have the ability for the general public to provide feedback to us through the Internet on those sites.

Ms. Browner. Mr. Chairman, just so we have given you all of the information, we cannot tell how many of those people are repeat visitors. There is no way for us to discern that. At 20 million visits a month, I think the clear indication is that there is a huge public desire for the kind of information that we have.

That puts on us a real burden as to how we present it. I

mean, we just created a new watershed program, giving people information on 2,000 watersheds. In one month, we had 2 million people visit their watershed.

Mr. Lewis. Two million people, and/or organizations and/or hits.

Ms. Browner. It would be 2 million hits. That is a pretty remarkable figure.

Mr. Lewis. It comes under the category that it is nice to be wanted.

Ms. Browner. Or it means you do something people care about; same thing.

Mr. Lewis. If or when EPA is made aware of misuses or mischaracterization of environmental data by third parties, what steps does or is EPA prepared to take to stop such behavior and prevent its reoccurrence in the future?

Ms. Browner. I can tell you from some personal experiences. We have contacted organizations where we believe they have inappropriately analyzed or interpreted information that is available and made that clear to them. Al, do you have something to add?

Mr. Pesachowitz. No. I do not have any other thing to add. We often times are asked if there is a publication of information. Often times we are asked by news media organizations if we agree with those numbers or whatever it is and of course respond if we think it is wrong.

Mr. Lewis. Do you plan to remedy all of the major problems identified within your information processes before continuing to collect new business, or governmental information, or data never before collected?

Mr. Pesachowitz. I would only say there that we are obviously going to continue to try to correct all our deficiencies on the information management side.

That does not preclude the fact that we may need to collect additional data and new data. In fact, probably the newer data we collect are collected in a more efficient and effective manner than the previous data.

Mr. Lewis. In the area of trying to probe what we are investing in this whole subject area, I am asking questions about how much are we investing in information.

Mr. Pesachowitz. Basically, EPA's last submission to the Office of Management and Budget included, I believe, about \$430 million in information resource management activities at EPA. That is everything including people, hardware, and systems development.

Ms. Browner. Right.

INFORMATION SYSTEMS: BUDGET REQUEST

Mr. Lewis. How much additional resources does the 1999 budget request?

Mr. Pesachowitz. I would have to go back and check for the record. I would have to gather, again, the 43(a) we just submitted. We have to go back to our programs to do that again for the 1999 budget.

Mr. Lewis. Okay.

Ms. Browner. Mr. Chairman, there is no intention to mislead you, but let me explain what the complication is here.

The numbers Al is looking at are based on efforts, for example, where we have a statutory requirement to collect certain information. He is looking at what it cost us to do that.

In terms of some of the Right To Know programs, and Internet information, like Surf Your Watershed, that number is not captured in your total, right?

Mr. Pesachowitz. Some is and some is not.

Ms. Browner. That is the concern. Is the impact captured?

Mr. Pesachowitz. Yes; a portion of impact is captured as well.

Ms. Browner. A portion of impact. So, may we respond for the record and try and tease this out for you because it is a little complicated.

Mr. Lewis. As you do that, that is okay.

[The information follows:]

Data Management Funding

The FY 1999 President's Budget Request is \$441.1 million in the Agency's FY 1997/1998/1999 report to OMB on Information Technology Systems; as required by OMB Circular A-11, Exhibit 43. This represents a decrease of \$2.2 million over the FY 1998 Operating Plan level of \$443.3 million.

Mr. Lewis. I have got a number of other questions in this subject area that I would just as soon put in the record and appreciate it. Al, thank you for coming up.

Ms. Kaptur is not going to come back if I do not call on her pretty soon. Ms. Kaptur.

STATE REVOLVING FUNDS

Ms. Kaptur. Mr. Chairman, thank you. I apologize, I had a concurrent hearing over in Agriculture where I am Ranking Member. I am very apologetic to our witnesses here today.

I just wanted to go back to a question I asked earlier about the funding that is available through the State Revolving Funds for infrastructure improvements at the local level.

Based on the numbers you gave me, and I was sitting over in my other committee dividing this out. If there are \$2 billion or \$10 billion by 2005 or whatever the year is, then that means for the 50 states, it would be about \$200 million.

If all that money were there to loan out and you had good loans across the country, that would be about \$200 million per state in that year. Now, we know that it is a revolving fund. Money is being paid back.

The costs of building onto this treatment plant would use all of that up, as I understand it, just for my little community. Now, if we divide it by Congressional Districts, there are about \$23 million.

So, I guess my question really is if you require major infrastructure improvements, like a major expansion to a treatment facility for waste water, and I guess there is a 40-percent match.

If you have a \$300 million bill minimum, where are you supposed to get the money to do that?

Ms. Browner. First of all, let us set the record straight. It is a 20-percent match for the SRF.

Ms. Kaptur. It is a 20-percent match, okay.

Ms. Browner. By the state.

Ms. Kaptur. By the state.

Ms. Browner. The states create the pot of money that is then loaned to the local community. So your state legislature appropriates a chunk of money that then goes into this pot.

If the President's budget request is met, the amount of money we would provide Ohio in just one year to the pot for just wastewater--not including drinking water--is \$61 million in one year.

That is the amount of money that would go into your pot. The state would add a 20-percent match. So, in one year, you would have something on the order of \$73 million, if I did my math right. Plus, you have repayments coming in that can be loaned out again.

We can call Ohio and find out what they are revolving at right now. Remember, this is happening every year and you are getting repayments every year. The money is going back out.

Whatever capital investment may be necessary, you do not spend it in one year. It is probably a multi-year plan to address this problem, with expenditures over an extended period of time.

Ms. Kaptur. I think what would be very helpful to our community is if I could share with someone in your office the projected costs of this thing.

Then we want to look at how realistic is this. If I understand my District, I can understand the rest of the country. I am sure they are facing the same problems.

Ms. Browner. We will have Bob Perciasepe sit down with you. He is the head of the Office of Water.

BROWNFIELDS: SHOWCASE COMMUNITIES

Ms. Kaptur. All right. I appreciate that very much.

The second question has to do with the imminent announcement of the showcase communities for brownfields around the country. There are about 15 agencies that are involved in the selection of these. My question is where is the money coming from since it is not a separate line item?

Ms. Browner. We are each providing dollars.

Ms. Kaptur. So, each one is.

Ms. Browner. Yes.

Ms. Kaptur. Where within EPA would that be coming from?

Ms. Browner. From our Office of Solid Waste and Emergency Response. It is a part of our operating plan that you all have approved.

Ms. Kaptur. Do you have a sense of how much EPA's contribution would be in the fiscal year?

Ms. Browner. For each community that is selected as a showcase community, EPA will provide \$200,000.

Ms. Kaptur. What would be the most important criteria EPA would use in selecting the first batch of communities?

Ms. Browner. EPA did not make the selection on its own. EPA was one of the 15 agencies that voted on the applications. EPA was one. We had no greater weight to this than the others.

Ms. Kaptur. EPA's share would just be \$200,000. Then there is a HUD share.

Ms. Browner. You got it, right. You got it.

Ms. Kaptur. So, what would be your estimate if a community is in the top ten, how much is expected for brownfields?

Ms. Browner. More than \$1 million per city for the showcase communities. That will vary depending on the applications that they were going to spend it on.

Ms. Kaptur. Now, I know you could only be one of 15 votes, but when EPA cast its votes, what were you looking for?

Ms. Browner. Tim cast our vote. I think all of the agencies used career employees to cast their votes. Tim has been there for 26 years, before there was an EPA to be at.

Mr. Fields. Just briefly. The 15 agencies all voted. They looked at different factors. We looked at the extent of involvement in brownfield activities within a particular city or a community.

We looked at the relation between the local entity and the state government in terms of coordination on brownfields. Does the state have a voluntary clean-up program to oversee the clean-up of brownfield sites within that city?

We looked at the involvement of the local community in that city. All of those factors were considered in deciding. Again, the final decisions have not been made. Hopefully the announcement will be made in the next two or three weeks.

Those are the kinds of considerations that EPA looked at in deciding our votes. Obviously the other agencies looked at the extent of their involvement. For example, HUD. They would look at whether there was some significant HUD involvement in this particular community.

Were there some programs proposed in the application that would support HUD's agenda? The Economic Development Administration and Commerce were involved. The Department of Labor looked at job training initiatives that might be going on in the city. So, each of the 15 agencies looked at these applications from a different perspective and brought these perspectives to the table in deciding on which communities ought to be designated as brownfield showcase communities.

Ms. Kaptur. Let us say that a community is awarded funds this year, do they have the right to apply again next year? If a community is not awarded funds this year, will there be a subsequent reapplication?

Mr. Fields. Right. The Brownfields Showcase Communities Program is meant to be a two-year program. So, if a community is designated this year, they would not be able to apply next year. We want to make sure it is open to others.

As Carol said, there are a dozen or so people that we will be designating this time. We want to make sure that other people can compete next time. So, the people selected in 1998 would not be able to apply in 1999.

Ms. Kaptur. If a community were not selected, they obviously are still eligible for the EPA brownfield existing program.

Mr. Fields. Assessment Grants Program.

Ms. Browner. Those are about \$200,000.

Ms. Kaptur. Thank you. That is the most clarification I have ever had on this. It is deeply appreciated. Thirdly, I wanted to ask, Madam Administrator, have you ever personally visited, and I know you travel everywhere, any site in the United States where waste water is being treated and then pasteurized and turned into organic material that is then used as a soil compliment?

Ms. Browner. Wastewater or sewage sludge?

Ms. Kaptur. Sludge.

Ms. Browner. I have been to a lot of places. I cannot believe I have not been.

Ms. Kaptur. It did not impress you in any case if you do not remember it.

Ms. Browner. The competition is stiff. There are those Superfund sites.

Ms. Kaptur. I would like to extend a personal invitation to you to visit a community in the United States. I wish it were my own, but there are others where the entire amount of municipal waste is being reprocessed where organics are preserved and where that product is then obviously pasteurized and reused.

Ms. Browner. Okay.

Ms. Kaptur. I know you travel a lot. As you look for sites, I think once you see what is happening, it truly is very impressive.

Ms. Browner. Mr. Perciasepe tells me that 50-percent of the wastewater treatment facilities are doing it. I have been to a lot of wastewater treatment facilities. But I would be happy to look at this invitation.

Ms. Kaptur. They are pasteurizing and reusing?

Mr. Perciasepe. I do not know if pasteurize is right.

Ms. Browner. It all has to be cleaned up.

Ms. Kaptur. I realize that, but then what do they do with the end product?

Ms. Browner. They reuse it.

Mr. Perciasepe. Land application.

METHYL BROMIDE

Ms. Kaptur. Okay. Finally, I wanted to ask, do you believe that there will be acceptable alternatives to methyl bromide when the actual date of discontinuation occurs? If not, what do we do?

Ms. Browner. We and the Department of Agriculture have been funding the development of alternatives. I apologize. I do not know the total funding amount this year. We can get that number for you.

We are working to ensure that those are available. If history is any guide, we should get there. It is an all-out effort to do just that.

Do not forget, under the new schedule in 2005 there is an essential use exception if it is necessary. So, there is an inner mechanism existing.

[The information follows:]

Methyl Bromide: Research on Alternatives

In FY 1998, the Office of Atmospheric Programs has allocated \$120,000 on methyl bromide alternative development grants. In FY 1998, USDA has allocated \$15 million to the development of alternatives to methyl bromide.

Ms. Kaptur. I thank you for that.

Mr. Chairman, I appreciate it. We will submit some questions for the record on what has been happening at the U.S.-Mexico Border post-NAFTA; particularly the number of certified plant, additional plant applications, for the water and waste water treatment.

Mr. Lewis. Ms. Kaptur, we are going to be here tomorrow as well. Mr. Frelinghuysen.

Mr. Frelinghuysen. I do not know whether I am batting clean-up, but I have got the word to keep it brief. So, I understand, Mr. Chairman, that Mr. Tim Fields started with the Agency in 1971. Is that right?

Mr. Fields. Yes, sir.

Mr. Frelinghuysen. The employee count in 1971 was 7,100 employees. I want to know whether or not there was any relation between your length of service and the fact that the population of the EPA doubled in 20 years. So, now the work force is 18,375. Is that right?

Ms. Browner. Yes.

hazardous substance research centers

Mr. Frelinghuysen. Well, we are going to get some of your off the record comments after this meeting as to why we had this population explosion. Thank you for your service for 26 years. We appreciate it.

Madam Administrator, I have one last question. It relates to the hazardous substance research centers. Can you tell me what is currently being spent in the fiscal year 1998 monies on hazardous substance research centers?

I have written you on that issue. It is still a little cloudy from your responses as to what we are spending, what the funding levels are.

Ms. Browner. As I understand it, we will be spending \$5 million for five centers; \$1 million each. That is my understanding. That is in fiscal year 1998, which I think is what your letter requested.

Mr. Frelinghuysen. We have got that information at this moment. We thank you very much. Thank you, Mr. Chairman.

Mr. Lewis. Thank you, Mr. Frelinghuysen.

I, too, was intrigued by Mr. Fields' length of service. I have been talking a lot with Carol otherwise about the word ``environment.'' In my head, that is about 30 years ago. So, you must have discovered it in college or something like that.

Ms. Browner. He was in grade school.

Mr. Lewis. Ms. Browner, we appreciate your working with us today. We will be adjourning for this evening and closing down.

We will reconvene tomorrow morning at 9:30 a.m. and run through the completion at sometime around noon right here in this room. So, we are adjourned until then. Thank you very much.

Wednesday, March 11, 1998.

Regional Haze: Implementation Plan

Mr. Lewis. The meeting will come to order.

Mr. Stokes was here a while ago but is now next door. He suggests it will be fine that we went forward, since we have a lot of ground to cover and he will be back a little later. Thank you, Mr. DeLay, for being here.

Ms. Browner, we had a wonderful day yesterday, maybe we can proceed in a similar fashion today. On July 31, 1997, the EPA issued a proposed regulation to address what is commonly referred to as regional haze. The purpose of the regulation is to improve visibility in 156 parks and wilderness areas referred to as Class I areas in the Clean Air Act in 35 States plus the Virgin Islands.

The goal of the proposed regulation is to achieve natural background levels in Class I areas; that is visibility which is not affected by manmade air pollution. This proposed regulation would establish a target of one deciview improvement per decade to be achieved in each Class I area until natural background visibility levels are reached.

As I understand it, one deciview equates to approximately a 10 percent decrease in air-borne particulate concentrations whether they be from natural or manmade sources. Several decades of emissions reductions will likely be needed to reach background levels in most Class I areas. Like the new ambient air quality standards for fine particulates, commonly referred to as PM 2.5, the proposed rule for regional haze would similarly require the control of fine particulates.

However, such controls would come on a faster schedule than PM 2.5 in some areas, will affect more areas of the country, and will likely require greater emissions reductions to reach background levels. To add distant sources of regional haze of perhaps hundreds of miles from Class I areas may be subject to emission controls.

I understand that EPA has calculated that the benefits of achieving the first deciview of improvement exceed its cost, although two-thirds of the benefits come from assumed health improvements even though the purpose of the rule is not to improve public health.

I believe I am correct that EPA has not analyzed the cost and benefits of ultimately attaining natural background visibility levels. Not surprisingly, industry and at least 16 States have questioned the need for the regional haze rule, arguing that other requirements under the Clean Air Act amendments will continue to improve air quality visibility without such a new program.

Under any circumstance, 43 or 44 States have submitted comments and either individually or collectively have argued that if EPA is to continue with this proposed program, significant changes are needed to make the program flexible, less burdensome and scientifically sound.

I might add that California is one of these latter States calling for such flexibility. As stated by the California Secretary of Environmental Protection, Peter Runi, in a recent letter to Ms. Browner, U.S. EPA and the Clinton Administration

must follow through on their promises and deliver a sensible, flexible and cost-effective implementation program for regional haze.

The current proposal does not. Its failure in this respect is all the more egregious given the substantial public comments offering flexible enforcement and enforceable-based approaches received by EPA.

First, Madam Administrator, am I correct that your current implementation plan for regional haze will not precede the schedule for the PM 2.5 State implementation plans? And if they do proceed, the 2.5 SIPs, the similar character of the fine particles being regulated essentially makes a farce of the President's directive to delay implementation for attaining the revised standards of ozone and PM 2.5, don't you think?

Ms. Browner. Two points, very briefly. One, this is a proposal on which, as you point out, we have received broad comment. We are continuing to analyze those comments and we will respond.

In terms of regional haze and the implementation of a PM 2.5 standard, it is our intention to manage the two together, not to have regional haze go first, but to actually combine them and look to our efforts with the States to protect Class I areas and how best to do that.

And if we need to be clearer about that we will, but that is our intention.

Mr. Lewis. I think you know, without going over it again, of my involvement in air quality matters. But in Southern California, I represent a huge, huge district that kind of has the variety of the mix of our State. The valleys of the smoke are out in the desert areas. They have been called that by the Indians because when the wind blew there was sand everywhere. You know, it is mostly desert territory and visibility questions are ever present. I just do not know how, from a Federal rule, you regulate that without a lot of flexibility at a local and regional level.

Ms. Browner. Right.

Mr. Lewis. If you do plan to go forward with your regional haze efforts following PM 2.5 implementation, will there be any need to appropriate funds for EPA to review SIPs for regional haze until after the 2005 deadlines for PM 2.5?

Ms. Browner. Yes. At this point in time, Mr. Chairman, I do not think we would seek a specific appropriation. We can manage it, we think, within our existing budget request. Obviously, if something changes in that, we will discuss with your staff and others how to best proceed. But, at this point in time, it is not our intention to seek an additional appropriation.

Mr. Lewis. I was really kind of interested in appropriations that relate to review of SIPs for regional haze until after the 2005 deadlines for PM 2.5 plans.

Ms. Browner. There are some administrative SIPs that are coming in, and we will manage those within the existing system. I think it is very hard to say what may or may not happen after 2005.

But with those administrative SIPs, we can manage with it.

Mr. Lewis. In light of all the comments asking for major revisions in the proposed regional haze regulations, it is very apparent that affected States have a great deal of interest in

the matter. The States, after all, would likely have to develop plans to make reasonable progress towards national visibility goals and would have to work together to develop the factual record to support their independent regulatory activities.

Accordingly, there would seem to be implementation issues which need to be addressed. First, how many multi-State organizations will be needed to develop the necessary visibility records throughout the country; and what regions will they cover?

Ms. Browner. That is part of what we are taking comment on and reviewing at this point in time. We have not made a decision. We are working closely with existing organizations like the Western Governors' Association to try and get a handle on what they think makes the most sense, but we have not made any decisions in terms of what regional entities might be appropriate for this work.

Mr. Lewis. I have a number of related questions to that line and the response would have to be similar. So, I think it is very important and I would appreciate your notifying the Committee when you get to the point of decision or get to the point of considering between a couple of options so that we can have some information.

Ms. Browner. We can certainly do that.

pm 2.5 monitors

Mr. Lewis. Okay. With regard to the issues of monitoring and baseline, EPA will be required to deploy monitors to measure on a spatiated basis the PM 2.5 concentrations for visual air quality and other related data in 156 Class I areas protected under the proposed regional haze rules.

How many Class I areas currently have monitors to gather the data needed by the States to implement the proposed rule?

Ms. Browner. We will get you the specific number on the monitors that are in place. The monitoring network as part of the 2.5 effort will cover some of this. You will be using the same monitors for the Class I data collection as you would use for the 2.5 data collection.

Mr. Lewis. Well, I am interested in not just the numbers, how many have monitoring, how many do not, et cetera?

Ms. Browner. We can provide that to you.

[The information follows:]

[Pages 190 - 194--The official Committee record contains additional material here.]

Mr. Lewis. One of the elements here that is of interest to me and it is a regional and provincial thing, but I mentioned the desert country. There is a new set of parks and specially regulated areas in the Eastern Mojave where these winds take place and I am very interested in knowing what our thoughts are about all of that.

For you can very easily in an area that is the size of several Eastern States, I am very sensitive to impacts on the urban or suburban centers in the name of solving problems that

are 50 miles away from those centers.

grand canyon visibility transportation commission

Finally, Ms. Browner, as you know the Grand Canyon Visibility Transportation Commission is to date the only such transport commission created pursuant to the Clean Air Act. And in the course of developing recommendations that the agency could use to develop its regional haze rule, that commission took over five years and spent nearly \$4 million. Nevertheless, it did not recommend that EPA adopt a new one-size-fits-all Federal mandate or directive to improve visual air quality. Rather, it indicated that the current requirements of the Clean Air Act were sufficient to produce reasonable progress.

In light of this, why did EPA propose a prescriptive new national program and ignore recommendations of the only entity, the Grand Canyon Commission, with any specific experience? That kind of speaks to where at least a lot of people are coming from; they are wondering why.

Ms. Browner. I think we all agree that the Grand Canyon effort was a very positive effort that involved numerous stakeholders and a thoughtful process. We are learning from that and looking to apply the lessons to this effort and I think we have been doing that. Perhaps we have not explained that as well as we should have.

Fred was a member of the Grand Canyon Visibility Commission. He participated in all of those meetings and is a great asset to us now as we look at these issues, including the regional issues that you raise. One issue we are addressing is which are the right bodies to manage those regional issues.

Mr. Lewis. So, Mr. Hansen, can you explain it as good as we should have?

Mr. Hansen. I think that the description has been in there. I should be clear that I served on the Grand Canyon Visibility Task Force as Oregon's representative before I joined EPA.

But I think we did not communicate as well as Carol just indicated. Our intent, when we developed the regional haze rule, was to be able to reflect what came out of the Grand Canyon Visibility Commission as well as from the Western governors in their recommendations.

I do not think we communicated as well as we could have. I think a number of those issues have been addressed now but we are still addressing them.

Mr. Lewis. Yes. But that takes me back to really kind of the simple point here; that was a great experience.

Mr. Hansen. Absolutely.

Mr. Lewis. The Commission itself said, we think the existing Clean Air Act works fine, so, why did you even--

Well, they said--so, why did you even propose a rule?

Mr. Hansen. Well, there were---

Mr. Lewis. This one worked pretty good. We do not think you need any changes in the Clean Air Act to do this. If a commission operates reasonably well, represents the interests, the stakeholders, et cetera, so, why do you propose the rule?

Mr. Hansen. The Western governors did recommend a framework which the National rule could, in fact, allow for the kind of flexibility that we all believe is very, very important. But

they also understood that we need to be able to address it on a broader regional basis rather than just the Grand Canyon Task Commission.

That is where I think the disconnect has been on some of that communication about whether our proposed rule was reflecting what the Western governors and others had recommended.

But we are in the process now of revising that and I think that I at least am confident that we can find common ground as we come through this.

Mr. Lewis. I am confident that we can, too, if we work very closely together here.

Mr. Hansen. Thank you.

Ms. Browner. Thank you.

Mr. Lewis. Mr. DeLay.

carbon dioxide emissions: regulatory authority

Mr. DeLay. Ms. Browner, yesterday I thought I heard you say that you had no authority to regulate carbon dioxide and that you were not implementing the Kyoto Protocol.

Ms. Browner. I do not think I said that but----

Mr. DeLay. Oh, okay. Well, if you did not, then maybe we could----

Ms. Browner. But wait. Let me be very careful here. You just said that I said two things.

Mr. Lewis. You are always very careful.

Ms. Browner. One of them I am sure I did not say in the way in which you just portrayed it, and you also just said as I heard--maybe I am mishearing you--but did you say I was not implementing Kyoto?

Mr. DeLay. Right.

Ms. Browner. That is correct. I did say I was not.

Mr. DeLay. Okay. So, I got half of it right. [Laughter.]

Ms. Browner. I am a little slow this morning.

Mr. DeLay. Well, do you agree with me that carbon dioxide, rather than being a pollutant as the word ordinarily would be understood and would be defined in a dictionary, is a gas that is absolutely essential for growth, indeed, the life of trees and plants, including our Nation's agricultural crops?

Ms. Browner. As is frequently true with many things in the environment, in the right quantities it is a positive influence, and in the wrong quantities it is a negative influence.

And that is generally I think what a pollutant is thought to be, something that in excess causes a problem.

Mr. DeLay. Well, insofar as the Environmental Protection Agency's regulatory authority is concerned under the Clean Air Act as amended, do you agree with me that carbon dioxide nowhere is listed in that statute as being either a pollutant or an air pollutant much less a hazardous air pollutant?

Ms. Browner. Well, there are many things that are not specifically named in the Clean Air Act, Clean Water Act, and other environmental statutes where I think there is wide-scale agreement that setting pollution standards, public health environmental standards is important and is part of what we do.

Mr. DeLay. Well, in as far as EPA's regulatory authority

under this Act, is it not true that neither you nor any predecessor administrator has made a determination under the law that carbon dioxide is either a pollutant or an air pollutant or even a hazardous air pollutant?

Ms. Browner. I do not think there has been any legal determination under the Clean Air Act.

carbon dioxide emissions: internal memo

Mr. DeLay. The March 6, 1998, issue of the publication called, ``Inside EPA'', contains an article referring to a memorandum allegedly prepared by someone inside EPA which asserts that the EPA had the authority under the Clean Air Act to regulate carbon dioxide emissions.

Have you seen or otherwise been informed of any such memorandum?

Ms. Browner. First of all, I want to make very clear that ``Inside EPA'' is a private publication. It is not a product of the Environmental Protection Agency. It is a group of reporters like any other group of reporters who cover EPA in articles.

Mr. DeLay. Not a product of the agency?

Ms. Browner. No. There is a lot of confusion about this. People think we put it out. Rest assured, if we put it out, I would get better press in it. [Laughter.]

Ms. Browner. As would you, Mr. Chairman. We would see to it. [Laughter.]

Mr. DeLay, after that article appeared there was a subsequent article, which I am sure you are aware of, in the Washington Times, I believe on Saturday. There may have been another article in the Washington Times on Tuesday or Monday, after the first Washington Times article.

I asked ``what is this?'' and I was shown a copy of the memo. I had not seen it before then.

Mr. DeLay. So, you have seen it since?

Ms. Browner. I have now seen it, yes. I think we have it with us and we would be more than happy to give it to you.

Mr. DeLay. I would love to have it because I do not know that I have that particular one. I do have two documents though, maybe two other documents other than that one. One is consisting of three pages that is entitled, ``Environmental Provisions in Electricity Restructuring Legislation.''

Ms. Browner. Right. That is one of the memos I think that is referenced. I have not read the Inside EPA article. I believe this is one of the memos that may be referenced in one of the Washington Times articles. It looks like you have the memo.

Mr. DeLay. Yes. And then the other one that I have is one that consists of two pages that is entitled, ``Electricity Restructuring and the Environment: What Authority Does EPA Already Have And What Does It need?''

Do you have that one?

Ms. Browner. Yes. So, you have the two memos that I was referring to, yes.

Mr. DeLay. Okay, good.

Did you request or authorize the preparation of either of these two documents or did you request or authorize its preparation?

Ms. Browner. No.

Mr. DeLay. Do you know what EPA official requested preparation of either or both of these documents?

Ms. Browner. No, I do not. That is not to say, however, that we do not have people who I trust to engage in dialogues across the Administration on a whole host of issues and to prepare their points of view and to make those available and I would assume that is what has happened here.

As I said, I did not see these until the Washington Times article of this week. I think it was a Saturday article.

Mr. DeLay. I believe you. Could you promptly make an inquiry and inform this committee of the inquiry of which person or persons----

Ms. Browner. Prepared the memos?

Mr. DeLay [continuing]. Prepared these memos?

Ms. Browner. Certainly, yes.

First, I will give it to ``Inside the EPA'' and then you can read it and then you can reread it in the Washington Times.

Mr. DeLay. That will be good.

Mrs. Meek. Would the gentleman yield?

Mr. DeLay. Yes, sure.

Mrs. Meek. What article are you talking about? I am clueless as to what you are talking about.

Mr. DeLay. Well, there was an article in ``Inside EPA'' that was talking about these two memorandums and then there was an article, as Ms. Browner has said, an article in the Washington Times over the weekend about the same thing.

Ms. Browner. There have been two now in the Washington Times, one yesterday and one on Saturday.

Mr. DeLay. Yes. It is basically making the case that they are, indeed, implementing the global warming treaty before the Senate ratifies it.

Ms. Browner. With all due respect having read the articles, I would suggest that they raise the question.

Mr. DeLay. I stand corrected. They raise the question, therefore, I am raising the question here.

Ms. Browner. With all due respect.

Mr. DeLay. Yes. [Laughter.]

carbon dioxide: predecisional nature of memo

Each of these two documents bears a notation at the bottom of them that uses the word, pre-decisional. And I do not know what that means but could you tell us the subject matter of all the decisions to which these documents relate and the timetable of making such decisions?

Ms. Browner. There----

Mr. DeLay. It says, pre-decisional, so, evidently----

Ms. Browner [continuing]. Yes, I do not know what that means.

Mr. DeLay [continuing]. It was submitted to--you do not know what pre-decisional means?

Ms. Browner. Well, I can tell you what I think it means. I do not know what it means in the context of this memo because I think there is no decision in the way you are suggesting.

What this means generally when it is used is this is an individual or a group of individuals' thoughts on how something

may or may not be occurring or how it might occur. At that stage it in no way represents official agency policy or has been cleared through the management of the EPA. It happens the same way that I am sure your staff occasionally drafts a memo and you look at it and you say, well, that is not my opinion, that is not what I believe, and we need to rewrite it.

I think that is why the pre-decisional language is used here, but we will certainly ask the people who wrote these why they chose to use that. I understand your question, and I think it is an appropriate question. The word decision in pre-decisional creates an appearance.

And all I would say to you is I do not think that appearance is accurate, but I certainly understand why you would take that away from this.

Mr. DeLay. When you find these people and ask them, could you ask them to answer this question, if there have been decisions based upon these memos?

Ms. Browner. There have been no decisions based on these memos. I make the decisions.

Mr. DeLay. Okay, good. Well, if that is the case and you have seen the----

Ms. Browner. I am not saying I do not necessarily agree with some things in the memo and disagree with others. But, in terms of decisions----

Mr. DeLay. Well, we do not have time here to go through all of it to see which one you disagree or agree with. The following statement appears at the top of the first page of the second document, which is ``Electricity Restructuring and the Environment: What Authority Does EPA Have and What Does It Need'', it says and I quote, ``EPA currently has authority under the Clean Air Act to establish pollution control requirements for all four pollutants of concern from electric power generation, nitrogen oxide, sulphur dioxide, carbon dioxide, and mercury. Action could be taken under provisions for meeting national ambient air quality standards addressing trans-boundary pollution or setting technology based emissions standards.''

Insofar as that statement refers to carbon dioxide, do you as the Administrator agree with that statement; and if you do not agree with it completely insofar as it refers to carbon dioxide, could you please tell us to what extent, if any, you disagree with the statement?

carbon dioxide: legal authority to regulate

Ms. Browner. That is a general summary statement about authorities provided in the Clean Air Act which I would agree with. There are broad authorities granted to EPA to address certain pollutants, including those listed, and many others.

Mr. DeLay. So----

Ms. Browner. I would just----

Mr. DeLay [continuing]. You do think that the Clean Air Act allows you to regulate the emissions of carbon dioxide?

Ms. Browner. I think we are granted broad authority under the Clean Air Act to----

Mr. DeLay. Would you get me a legal opinion on that?

Ms. Browner. Certainly.

[The information follows:]

[Pages 200 - 206--The official Committee record contains additional material here.]

Mr. DeLay. Okay, good.

Ms. Browner. Mr. DeLay, I might just call your attention to the next sentence because I think they really warrant being considered together. It points out that the Clean Air Act does not provide the Agency with the authority to address certain pollutants using market mechanisms which we all agree have been tremendously successful.

So, it is important to understand that the memo was looking at how do you go about addressing certain pollution problems in the most cost-effective, common-sense way. It was flagging the fact that, in the opinion of the writer, whom I do not know who it is, the Clean Air Act does not provide those kind of common-sense, cost-effective solutions.

Mr. DeLay. Okay. The first few paragraphs of that memorandum entitled, ``The Environmental Provisions'' and so forth, refers to President Clinton's October 22, 1997, speech on climate policy.

The memorandum quotes from the portion of the so-called fact sheet accompanying the President's speech which said, and I quote, ``With the appropriate market based provisions electricity restructuring legislation could reduce carbon emissions by creating incentives to produce and use electricity more efficiently and with less pollution.''

Then on page three of the memorandum in the last paragraph there are references to market based cap and trade provisions for these pollutants in the Administration's restructuring proposal. The text says of such an approach, and I quote, ``It would be seen as a concrete step to move forward domestically on global warming, while continuing to work for progress internationally, in the follow-up to Kyoto.''

Ms. Browner. Are you on page one?

Mr. DeLay. No. I went from----

Ms. Browner. One to----

Mr. DeLay [continuing]. One to page three.

Ms. Browner. Okay.

Mr. DeLay. And in the last paragraph there are references to market based provisions where it says, market based provisions for these pollutants in the Administration's restructuring proposal, about three sentences down.

Ms. Browner. I am with you.

electricity industry restructuring

Mr. DeLay. And then it also says on down that it would be seen as a concrete step to move forward domestically on global warming, while continuing to work for progress internationally in follow-up to Kyoto. Is it the EPA's or your position as the Administrator that electricity industry restructuring legislation should contain provisions that place caps on electricity-related carbon dioxide emissions as well as related provisions concerning domestic emissions trading, even before

the Senate ratifies the Kyoto proposal?

Ms. Browner. The Administration is engaged in a multi-agency multi-department discussion as to electric utility restructuring legislation and, as I understand the process, there will be Administration legislation or principles. We are part of that process. No decision has been made at this time.

It is a robust dialogue, as it well should be to serve the American people well, and the writer of this memo had a set of opinions about what opportunities might lie there. That does not mean that an Administration decision has been made.

But the other thing I just want to say here is that the President pre-Kyoto, going back five years now, has been very clear that we must look at all of the tools available to address the domestic global warming challenge. We have had a plan in place and there is no surprise in that. And we have committed to continuing and, in some instances, expanding that plan. We have also been very, very clear, and I personally have met with utility executives, about the fact that economic market incentives are one of the smart ways to go.

I think there is a lot of agreement in the utility sector that the acid rain program was a very successful use of those tools and nothing in our opinion about that has changed.

Whether or not utility restructuring is the place to do that, whether or not it should be done somewhere else, is an open question.

Mr. DeLay. Well, what current and planned activities of the EPA and all that, EPA activities that could be funded properly by appropriations under the President's request, whether or not such activities are planned that directly and indirectly are related to the issue of inclusion in the electric restructuring legislation of provisions that place caps on electricity-related carbon dioxide emissions? Or any related provisions concerning domestic trading.

Ms. Browner. There is nothing in Environmental Protection Agency's budget request with respect to caps and a market driven emissions credit trading program. I think as the memo that you are citing from says, that is not something that the Clean Air Act or any other statute has given any one the authority to do.

The authority in the Clean Air Act was for an acid rain program and it does not extend beyond that in terms of requiring participation. This gets complicated because on the NOX side, we are going to do a model program which the States are probably going to opt into, but it is not something we can require utilities to participate in.

In this instance, the memo is pointing out that the legal authority to set up a cap and trade program which for carbon does not exist.

Mr. DeLay. Okay.

Ms. Browner. And I think you and I are in agreement on that, on that.

Mr. DeLay. That is for sure. We are in agreement on that.

Mr. Lewis. Move along.

Mr. DeLay. We are moving, we are agreeing on something.

Ms. Browner. We have agreement.

Mr. DeLay. Yeah.

Mr. Lewis. I do not want to start a revolution here.

[Laughter.]

Mr. DeLay. Quit while I am ahead. [Laughter.]

international programs: developing countries

I will be very brief on this next one. I am very concerned about the Kyoto Protocol and the provision of opting in, developing countries opting in. And you have asked for an increase in funds for the purpose of securing such meaningful participation from developing countries, I understand. Which developing countries do you expect to be able to persuade to opt-in to Kyoto?

Because clearly China and India are key developing countries to have on board before the treaty can be ratified. But what makes you think you will be able to persuade them, since they were responsible for killing the participation provision at Kyoto?

Ms. Browner. First of all, I want to be very clear, this is not a new program that we are seeking funding for. This program has been in existence, I think, for four or five years now. We have provided funds to this program previously and what we work with other countries on a variety of issues related to climate change. Again, this is not a new program.

This has not come about because of Kyoto. It has been there and we are more than happy to show you what the program has done previously and what we believe the opportunities are as we move forward.

Mr. DeLay. But your justification in your request specifically asks for more funds for----

Ms. Browner. Yes.

Mr. DeLay [continuing]. This kind of activity.

Ms. Browner. Absolutely. We ask for more funds in all of our existing climate change programs. That is absolutely correct. The total dollar amount, I think, is \$206 million, that is an increase off of a base of \$89.4 million. Absolutely there is no secret about that.

Mr. DeLay. Well, but, go back to my question. What makes you think that you can persuade India or China to opt-in if they were part of killing the participation part of Kyoto?

Ms. Browner. Let me be clear. The request for funding for developing countries is not for us to go out and pressure them to opt-in to Kyoto. It is to continue to work with them on projects and on efforts underway that do result in and may result in climate, greenhouse gas reductions.

I think you are trying to read into this that this money is to get countries to ``opt-in''.

Mr. DeLay. So, you do not think you can get them to opt-in?

Ms. Browner. I did not say that.

Mr. DeLay. Well, I am trying to get you to answer the question I am asking.

Ms. Browner. I am pointing out what the money will do. This is obviously----

Mr. DeLay. So, you are not going to use any of this money to try and convince these countries to opt-in?

Ms. Browner. That is not what this program is designed to do.

Mr. DeLay. What, not to persuade countries to opt-in to

Kyoto?

Ms. Browner. The point is that this is an existing program. We have been engaged in these activities long before the concept of opt-in ever emerged.

Mr. DeLay. Right. But now, you are engaged, and we have a Kyoto proposal now, and I understand through all kinds of different documents and your strategy opinions and all kinds of things that you are trying to convince these developing countries to opt-in to Kyoto. Now, I just heard you, I think I heard you say that you are not going to spend this money on that effort to encourage them to opt-in.

Ms. Browner. Well, let me be clear. There are obviously efforts underway and they have been very public, led by the State Department to work with developing countries and there is no secret in that. The question that I was responding to, perhaps not the question that I thought you were asking, is our work with the developing countries, is it quote, to go out and force people or cajole people into----

Mr. DeLay. Or persuade.

Ms. Browner [continuing]. Kyoto?

Ms. Browner. Or persuade, whatever the word is you might want to use. There is a program that is led by the State Department in terms of bilateral----

Mr. DeLay. So, that is not what you do, though?

Ms. Browner. We have an existing program and we are seeking to increase the funding for that program.

Mr. DeLay. If the Kyoto Protocol was ratified, would you still need that money?

Ms. Browner. We think these are successful programs. They are very similar to the programs and partnerships we have with the domestic business community to demonstrate energy efficiency, to develop new energy efficiency technologies, whether it be cleaner cars or more efficient computers.

Every one of you who uses a computer probably benefits from a cooperative agreement between EPA and the computer industry. Your computer goes to sleep. It uses less energy when you walk away from it but you do not have to turn it off for that benefit.

These are the kinds of programs we are talking about, demonstrating that with energy efficiency comes a corresponding reduction in greenhouse gases.

Mr. Lewis. I think that was a, yes.

Mr. DeLay. Okay. Well, I will yield back, Mr. Chairman, I appreciate it.

Mr. Lewis. Thank you, Mr. DeLay.

Mrs. Meek.

Mrs. Meek. Thank you, Mr. Chairman.

Good morning.

Ms. Browner, I am back to some of the questions I asked yesterday and I understand that one of your administrators will be here today to address this question.

Ms. Browner. Mr. Chairman, if I might introduce John Hankinson. He is the Regional Administrator for Region IV, which includes Florida, Georgia, Kentucky, Alabama, Tennessee, South Carolina, North Carolina, and Mississippi.

Mr. Lewis. John, can you come up here and take a seat?

Mrs. Meek. How are you doing?

Mr. Hankinson. Good, good to see you.

Mrs. Meek. Good.

Mr. Lewis. It is very apparent that the Administrator is paying close attention to you.

Mrs. Meek. I think so. I think I deserve it. [Laughter.]

Ms. Browner. And I agree.

Mr. Lewis. So, do I. I am sure not going to disagree.

Mrs. Meek. The chairman kind of likes me, Ms. Browner.

[Laughter.]

I can see him blush but he cannot see me. [Laughter.]

Mr. Lewis. Now, what are you going to do with that?

[Laughter.]

Ms. Browner. I have known Mrs. Meek probably for 15 years now.

brownfields: winwood project

Mrs. Meek. Well, thank you for coming. I have an area in my district that is called Winwood. It is right off of 36th Street, very near the airport. And I am particularly interested in the Brownfields project in Winwood. I asked a question yesterday regarding what EPA could do to facilitate the resolution of liens and such kinds of things that are left on property that has been designated as a Brownfield project. Such areas exist in my district.

This is a five-acre parcel and it has very good potential. It is very close to the downtown area and very close to the seaport, very close to that whole area there. The State of Florida funded this project for \$500,000 and that was to be the cost of the environmental assessment and full remediation of the contaminated soil on that site.

The developer's name is William Cocoast, and he is the principal of the Atwater Capital Group and he is an experienced brownfields redeveloper from the Chicago area. I understand he has a very good track record in this kind of thing. It is my understanding that the IRS has a lien on the property of \$102,000 and this lien has been pending since 1992.

There are other liens on the property but they do not seem to be insurmountable. One of them, from my understanding, is with the school district and the other one is with the city, itself, the Dade County School Board in the city of Miami which we can work on.

My question is, I know that EPA cannot make any promises as to the outcome of this, but will you take a close look at it and help us work our way through this with the Internal Revenue Service? Right now, we do not understand how to do this or how we can present this but we would like to move the project forward and that is what is holding us back.

Mr. Hankinson. We have been very active in Brownfields in the South Florida area and I would be happy to get one of our Brownfields folks together with the IRS and see if we can help move that along.

Mrs. Meek. That is very good. So, my contact here is John Schelble, my staff director.

Mr. Hankinson. Okay.

Mrs. Meek. And also what is important here, Mr. Chairman, is to show that there is a very compatible relationship between

economic development in these areas and the ability to work through some of the many problems that cause it to become vacant as it is now.

So, I am sure that my area is not the only area in this country with that problem but it is something I think that EPA should look at in terms of what impediments prevent these communities from utilizing these properties in a positive way just so it will not become purely provincial, that it will help all the other areas in the country that may have a similar problem.

Mr. Hankinson. We will do that.

wastewater: class i wells

Mrs. Meek. Okay, thank you.

The other problem has to do with the Class I wells and the problem we have in Florida. It has to do with domestic wastewater in deep injection wells.

I asked a question yesterday regarding fluid migration. And it is my understanding that treated effluent is injected to a depth of 3,000 feet using these lower-quality Class I wells. Our problem in South Florida is that effluent is migrating upwards to a depth of 1,500 feet, instead of staying down below.

Now, the Florida DEP has been working with the wastewater disposal industry. Recently they proposed a regulatory solution to this problem, which involves reclassifying the injection wells as Class V wells, but the EPA rejected this proposal.

I understand that no fluid migration whatsoever is allowed in these wells. It is a big problem for us in South Florida. I understand that Broward County is facing a moratorium due to this problem.

My question is, since the EPA has not accepted the industry's and Florida DEP's suggestion, what alternative solutions to this problem does the EPA propose to implement in light of the fact that there are virtually no alternatives to the continued use of wastewater underground injections by South Florida municipalities.

We are at a standstill in that regard.

Mr. Hankinson. Yes. This is an important issue for Florida and particularly South Florida and the area you represent. You described the facts pretty well, there is migration of pollutants up from the boulder zone into drinking water aquifers. And this is the concern that EPA and the State have for these wells because they are not supposed to be allowed to do that.

Mrs. Meek. Right.

Mr. Hankinson. We are working very hard with DEP to try to work out a solution. My staff has been meeting with the State on a regular basis. We hope to have some resolution by the end of April in terms of how to deal with this. There are other ways of dealing with it other than reclassifying the wells.

The challenge to a proposal to reclassify the wells to Class V is that would mean the water being put into the wells would need to meet drinking water standards. And since this water does not meet those standards it is difficult to see how a reclassification could be achieved but we are looking at all

alternatives with the State.

The State has been working with the wastewater industry and with the local governments there to work out a solution because it represents a lot of wastewater in Florida that is being managed this way.

Mrs. Meek. And I am pushing this a little bit because we do need a resolution of this problem. The problem is getting bigger, our population continues to grow and, hopefully for the record, EPA could give us some sort of timetable regarding how we can identify a reasonable solution to this.

Is that possible?

Mr. Hankinson. We feel comfortable that we will have some agreement with the State by the end of April. That is what we are targeting to reach a resolution.

Obviously we have water supply challenges in South Florida as well and we are trying to work with the local entities to make that water available for beneficial uses and not simply put it into the bore holes, into the boulder zone.

But there are a number of directions that you could take and we know it is a big problem for that area and we are working very closely with the State.

Ms. Browner. We will work to achieve a resolution by the end of April. We will notify you if, at some point in the process, that looks unlikely and then explain to you where we intend to go.

Mrs. Meek. Thank you very much, that will help us a lot.

Ms. Browner. Good.

Mrs. Meek. Thank you.

Mr. Lewis. Thank you, Mrs. Meek.

Mrs. Meek. And thank you for coming up here for little old me.

Ms. Browner. He was here.

Mr. Hankinson. It was good to see you again.

Mr. Lewis. Mr. Price.

Mr. Price. Thank you, Mr. Chairman.

Ms. Browner, I would like to return briefly to the question of the new ozone and fine particulate matter standards.

Ms. Browner. Okay.

ozone standard: implementation schedule

Mr. Price. I have had the opportunity to talk with a number of the researchers in your lab in North Carolina that worked on those standards. They have, of course, worked long and hard to develop these standards and they have been very generous in their time with me.

I want to commend you and the Administration for developing a flexible implementation schedule--I think that is important--allowing for the monitoring of PM levels on a much wider basis and some more testing of health effects over a five-year period.

I also commend you for allowing States three years to develop implementation plans for ozone after the new standards take effect.

I have stayed in close contact with the North Carolina Division of Air Quality regarding these new standards and know that they are committed to meeting them. I think they believe

that we can achieve the new eight-hour ozone and fine particulate matter standards in the time frame that you have established, just as we brought our entire State into compliance with the current one-hour ozone standard.

There does seem to be one sticking point, however, and that is what I want to talk with you about today. I was surprised to hear late last year that under an EPA notice of proposed rulemaking, the implementation schedule for ozone that we were counting on to allow us sufficient time to adapt to the new ozone standard might no longer be available.

We have been an active part of the Ozone Transportation Assessment Group, the so-called OTAG process, and our Division of Air Quality served as the lead agency in the Southeast modeling center efforts.

Now, from the perspective of the North Carolina Division of Air Quality, the objective of OTAG was to address regional transport of ozone under the one-hour standard.

The results of OTAG modeling, as well as some supplemental modeling, are that North Carolina does not significantly impact one-hour ozone non-attainment areas in other States. That has been the conclusion.

Ms. Browner. I do not know each State modeling, so, I assume that is accurate.

Mr. Price. That, I believe, is the result. Based on this result, I am wondering about the wisdom of requiring North Carolina, and possibly other States, to revise its State implementation plan before it is allowed to complete the necessary modeling and cost analyses for a revised plan.

The Division of Air Quality believes that it needs the full three years provided in the Presidential directive on implementation issues regarding the new standards to develop a plan that will meet the goals related to transport and local attainment under the eight-hour standard.

Could you address that this morning? Talk about the process underlying your decision to hold States accountable to the new eight-hour standard for ozone transport prior to holding them accountable for the new standard locally.

Ms. Browner. I can appreciate why there may be some confusion here. The work that OTAG did was done under the one-hour standard. The upper end of the range of reductions that OTAG--which the States themselves recommended to Environmental Protection Agency--has the effect for many areas of bringing them into compliance with not just the one-hour standard, which is what they were working on, but the eight-hour standard also.

If you achieve these reductions largely from utilities, you will for many areas be able to achieve both the existing or the historical one-hour ozone standard and the new eight-hour standard.

I want to be clear that there is nothing in the OTAG proposed SIP call, which we are now taking comment on, that changes the time line for the eight-hour standard. That time line stays in place. But many places are looking at how to manage the two in a coordinated manner because that makes more sense for their industry.

Mr. Price. Our State's understanding has been that it has to accelerate the process called for by OTAG, and to do it in a time frame that will really make it very difficult to

accomplish.

Ms. Browner. And with all due respect to your State--and we have a very good working relationship with your State agency--I think that there may be a slight disagreement.

We should ask the people at RTP to sit back down with the State, but I do not know that we would agree with their assertion that they have no one-hour transport problem.

And I think the premise of your question flows from their statement that they do not have a one-hour transport problem.

Mr. Price. Well, they do think that they do not have a one-hour transport problem.

Ms. Browner. And that may be right.

Mr. Price. But whether they do or not, the problem is that having to revisit the matter in this very short time frame with regard to the eight-hour standard for which there is otherwise a very flexible implementation schedule----

Ms. Browner. That is not what they are being required to do.

Mr. Price. What is the----

Ms. Browner. What is happening right now is comment--which many States are providing and I am sure your State will provide--on the work done by OTAG with respect to the one-hour transport issue.

Here is where I think we may have a disagreement that we would work with the State to resolve. You are telling me that the State experts are saying to you, North Carolina does not contribute to a one-hour transport problem and we are telling you that we think it does.

We should get the experts together.

Mr. Price. Well, I do not think there is any dispute that if the standards are being violated under the current, one-hour standard, those violations need to be addressed and addressed immediately.

The problem has to do with the transition to this new standard. And a time frame for transport, for dealing with the transport issue that is much less flexible than the time frame for dealing with the local pollution issue.

As a matter of fact, the State does believe some additional controls may be required to meet the eight-hour standard, to make the transition from the one-hour to the eight-hour standard.

The State does not know that, but it is concerned with having to address transport without looking closely enough at local attainment and having to make some changes to their implementation plan in the future as a result. The question is, do we have time to develop a plan for transport and local attainment in an orderly and reasonable way?

Ms. Browner. The implementation plan announced by the President as part of the new standards remains in effect for the eight-hour standard. Nothing in that has changed. I think there are many areas that are considering--and I have met with governors who have shared this with me--whether or not in addressing the one-hour transport issue that is squarely before them, that they may also be able to meet the eight-hour standard. They are taking advantage of that but they are not required to.

Mr. Price. But what if they cannot? I mean it is wonderful

if both standards can be met at once.

Tell me if this is wrong, but my understanding is that in your proposed rule, you are indicating that the SIPs are required earlier from the States that transport ozone because--and here I am quoting--``The information on controls in upwind States is essential to the downwind States in the latter States' attainment planning.''

My question is, if the modeling already indicates--and of course, this modeling has gone on now for some time--if the modeling indicates the extent to which States contribute to transport into other States, why is it necessary to actually implement the transport reductions at the earlier stage?

I do not understand in what sense that is necessary for the downwind States to do their planning.

Ms. Browner. Because the focus is on the one-hour transport issue. Right now I do not want to agree with your State's assertion that you do not have a one-hour problem. Many areas have a one-hour transport problem. And that is the focus of this effort now.

What I think we are doing, and this is where the States have been quite helpful, is also providing the eight-hour modeling so that hopefully in many areas rather than taking a separate step to meet the one-hour standard, you will simultaneously meet the eight-hour standard.

Mr. Price. No question that would be desirable. But the question is, is it going to be required in a way that makes an orderly process more difficult? Our State anticipates---

Ms. Browner. You are only required to meet the one-hour.

Mr. Price. Excuse me.

Ms. Browner. Right now, the requirement is to meet the one-hour.

Mr. Price. Yes, and there is no quarrel with that.

Ms. Browner. Okay.

Mr. Price. No quarrel with that whatsoever.

The question is, is this eight-hour standard now, with respect to transport, is this eight-hour standard being brought into the picture in a way that makes compliance more difficult? Their implementation schedule for compliance on the ground is quite reasonable, quite flexible.

But with respect to transport, it appears that before the one process is completed--and the State does think that the eight-hour standard is going to pose some additional challenges--is the State being required to scramble in ways that are really not feasible in dealing with this new standard.

Ms. Browner. I do not think so. But, obviously, someone in your State does and we should visit with them to find out why.

Mr. Price. And I hope you will. You have a letter from the State Air Quality Division about this and again, we are committed to meeting these standards. But it is not self-evident to me, anyway, why the time frame for the transport issue and for the local meeting of the standard should be out of sync, why the transport issue should have to be rushed in this fashion.

And is it not true that your proposed rule does do that? Does require the States involved in these transport problems, to go ahead and address the eight-hour standard on an accelerated basis?

Ms. Browner. In the proposed SIP call we did speak to both the one-hour and the eight-hour because that is where you will get the cost-effective common-sense pollution reductions.

Mr. Price. Yes, you will, if you can meet both standards at one and the same time with one and the same measures. If, on the other hand, there are problems, if there is a difference in what the States are going to have to do to address the second more demanding standard, then you are not going to realize that efficiency.

Ms. Browner. There is no change in the schedule for local measures under the eight-hour standard.

Mr. Price. I understand that, but there is a change with respect to the transport problem, is that not true?

Mr. Lewis. Excuse me, Mr. Price, you may want to have Mr. Wilson sit down and answer himself, you know?

Ms. Browner. Maybe the easier way to describe this is that based on the modeling done through OTAG, we believe that it is the same set of actions that get taken for the one-hour and for the eight-hour.

Mr. Price. In every case?

Ms. Browner. In terms of the transport issue. Now, obviously, you have other local decisions that you will make.

Mr. Price. That is not the issue though. The issue is transport. And how can we assume that, that that is----

Ms. Browner. You do not have to meet the one hour transport issue, and we all agree on that, right?

Mr. Price. Yes, but the eight-hour standard has been tightened, in most respects for very good reasons. How could you assume that the same actions in every case would address--
--

Ms. Browner. Because the modeling shows that if you focus on certain types of emissions, which is what the States have been discussing on a regional basis, the same actions get you the one-hour standard and the eight-hour standard. I know this is complicated but that is what the modeling and the pollution data show us.

We are taking comment on all of this based on the OTAG process and the States' recommendation to EPA in terms of the range of reductions that would be required to meet the one-hour standard.

Mr. Price. Hmm-hmm.

Ms. Browner. You get the eight-hour standard. So, it is the same set of actions that get you the one-hour and the eight-hour standard.

Mr. Price. Well, of course, we hope that is the case. But what I am raising this morning is the question of if that is not the case or if there is some doubt about that, then is the State going to have sufficient time, to meet the standard in an orderly fashion? That is the issue.

And I appreciate your willingness to work with the State in trying to implement this effectively.

Ms. Browner. Thank you.

Mr. Price. Mr. Chairman, do I have time for one further question.

Mr. Lewis. Certainly.

Mr. Price. This will be brief, but I do want to raise it because this involves some small businesses in my area and, again, a clarification of some of your rulemaking in the process that you are following.

This involves the textile services industry. I am sure you have heard about this from other members. I know the Environmental Protection Agency has proposed a rule regarding effluent guidelines for industrial laundry wastewater discharged to publicly-owned treatment works, the so-called POTWs.

This proposed rule will apparently require industrial laundries treating certain types of textiles to employ a chemical precipitation treatment technology to pre-treat wastewater before it is discharged to these POTWs.

Now, some constituents of mine who operate such laundries are concerned about this. They have reported to me that the proposed rule underestimates the costs that they would have to bear.

As I understand it, these facilities already pre-treat their wastewater. But the proposed rule would require pre-treatment with a specific type of technology. According to the Uniform and Textile Association, the average cost per facility under the proposed rule would be approximately \$250,000 compared to a much lower cost estimate from your agency, an estimate of \$84,000, I believe.

First, can you tell me if my facts are correct, as to what you are undertaking; and, talk about the process that you undertook for determining the cost of this proposed regulation to industrial laundry facilities? What was the process for determining the appropriate wastewater pre-treatment technology.

Is there some reason to require this particular technology? And if so, how have you determined that?

Ms. Browner. First of all, it is a proposed rule. No final decision has been made. In fact we have extended the comment period so we could hear from more parties who had raised questions and wanted to share information.

The general way in which these kinds of rules work is that we look at available technologies. What is available to achieve the level of reduction that everyone thinks is important? It is important to understand that if you do not get the reductions from these facilities, then you pass it on to the wastewater treatment facility and many other businesses make reductions before passing on their wastewater.

So, we look at the available technologies. It is not a technology-specific standard, however, that is adopted, it is a performance-based standard. So, you take the amount of reductions the technology could get you and that is what people are then required to meet when the rule is promulgated.

Mr. Price. You are certain of that, that it is not a technology-based standard.

Ms. Browner. You use the available technologies to understand what level of reductions could be achieved. But no one is required to buy widget A, they are required to meet pollution reduction X.

Mr. Price. Well, this is getting at the heart of the matter

I think. These POTWs, do they not currently have authority under the Clean Air Act to require the pre-treatment of wastewater from industrial laundries and other sources? And have they made use of this authority?

Ms. Browner. In some instances, yes.

Mr. Price. In most instances?

Ms. Browner. We can get you the answer to that.

[The information follows:]

POTW: Pre-Treatment Authority

The Clean Water Act does not explicitly confer authority to POTWs to require pretreatment of wastewater from industrial sources; however, over 1,500 POTWs (of 15,000) have approved local pretreatment programs based upon state and local authorities.

Implementation of these authorities are not consistent, either in terms of the number of pollutants regulated or the method for developing limitations to apply to the industrial sources. In addition, sources not covered by existing national (sometimes called categorical) pretreatment standards are not always controlled.

In the case of the industrial laundries, we estimate that incorporation of national pretreatment standards will result in the removal of 5 million pounds of toxic and nonconventional pollutants from POTW discharges to our nation's rivers and streams.

Discussions with representatives of industry and local governments have conveyed a wide range of opinions relative to the need for nationally consistent regulation of this industry. Some have claimed that no national pretreatment standard is necessary due to existing controls by POTWs.

Others have expressed concern that the lack of consistency between POTWs has economic repercussions that affect the citing of new facilities and the profitability of existing ones.

Mr. Price. Well, of course, what I am getting at is whether these efforts have been adequate; and, if not, why not? Are they not making use of their authority; are they requiring too little action; are they requiring the wrong technology? What is wrong with what the POTWs are currently undertaking with these facilities that supposedly necessitates a new rule?

Ms. Browner. Generally the POTWs do look to EPA for these kinds of rules. In this particular instance, do we have a rule on the book that we are changing? This is a new one. Maybe Bob Perciasepe can explain the process we are in right now.

Mr. Price. That brings up the question, have the POTWs requested this type of regulation?

Mr. Perciasepe. My name is Bob Perciasepe and I am the Assistant Administrator for Water. This is a technology-based proposal as the Administrator explained, but then it is performance-based in its implementation. And they can use any method that they want----

Mr. Price. I am sorry. If it is performance-based, then I thought that was----

Mr. Perciasepe. You look at what the best available technologies are out there and how they perform. We set a

standard and then there are usually other ways to do it and most businesses and industries find other ways to do it.

In terms of the POTWs, we look at the pass-through, whether the pollutants are passing through the POTW. And we also look at whether or not it can have any effect on the POTW's operation and effectiveness.

Most of those publicly-owned treatment works have complicated biological activity going on in there to reduce the normal commercial and residential wastewaters. Sometimes organic chemicals that come out of things like industrial laundries, when they are washing grease and other contaminants out of uniforms and things of that nature, can go down into the sewer system and disrupt the biological activity of the plant and reduce its effectiveness.

Most plants have been dealing with that issue. Some of those things can volatilize out of the sewer systems into the atmosphere as they are on their way to the sewage treatment plant.

So, we look at all of that and we try to help the sewage treatment plants by providing technology standards for them to use and all the background technical information for them to use in their pre-treatment program.

We have had a lot of dialogue with the industrial laundries. Clearly, they have concerns about the way we went about in this proposal looking at the best available technologies.

I have personally met with them and we have expanded the comment period to get some more information from them. We will sit down with them and try to reconcile whatever differences we have on the performance of different types of technologies.

Mr. Price. Well, if we are talking here about bottom line performance, that seems to make sense to me. If we need to impose stricter requirements, let us do so.

But why not leave it to the POTWs to decide what technology achieves that purpose and where and what kind of pre-treatment is appropriate and so forth.

I guess my puzzlement has to do with the degree to which the POTWs are now doing the job and where they are falling down on the job and what it is that makes this new rule necessary.

Mr. Perciasepe. It is a combination of atmospheric releases that might occur or are also passed through where the pollutants pass through. They have no effect on the POTW, they just pass through the POTW and go out into the environment.

Those are the things that we look at, along with providing the technical information to the POTWs who are running pre-treatment programs for us. You know, POTWs can also use credits.

If the treatment plant does remove materials from different discharges to the sewage system, they can develop reduction credits that they can use in their pre-treatment program.

So, they have a lot of flexibility on how they would implement it and it is very much performance-based as the Administrator was saying.

Mr. Price. Well, I think that is what these companies are looking for and if the extended comment period is designed to get a rule in place that offers that sort of flexibility and, obviously, some ability to adopt the most cost-effective

methods that is all to the good.

Mr. Perciasepe. We specifically did it in concert with the businesses to get us more time to work some of these performance issues out.

Ms. Browner. It will be a performance-based standard and they would not be required to use a particular technology. What technology they used would be up to them.

Mr. Perciasepe. Right. We just have to make sure that there is some technology out there that will do it.

Ms. Browner. And many of them will use the technologies that we test. I want to be clear about that.

But there will be some who will say, we have our own engineers and we are going to change this or that, we are going to do it a different way, and, as long as they meet it, they are fine.

It is not our business to worry about which technology.

Mr. Price. The comment period has been extended to what date?

Mr. Perciasepe. April 17th.

Mr. Price. April 17th. All right, thank you.

Thank you, Mr. Chairman.

Mr. Lewis. Mr. Price, it sounded as though you have people from the industry who are pretty well informed. I would urge you to facilitate a means whereby they can communicate with the principals here to make sure that those questions are being asked in a way that makes sense to them as well as to you.

Mr. Price. I have done that.

Mr. Lewis. Well, I thought it was good that we get it on the record.

Mr. Price. Good idea, yes.

Mr. Lewis. For this round, I think our last questioner is my friend and ranking member, Lewis Stokes.

national institute for the environment

Mr. Stokes. Thank you very much, Mr. Chairman.

Madam Administrator, I apologize for not being able to be here earlier this morning. I serve on two subcommittees on appropriations and both of them frequently meet simultaneously and that requires my presence in both places at the same time.

Let me start with a question that I think you will be familiar with. As you know, during the last few years there has been a determined effort by some members of the environmental community to have the Congress establish a national institute for the environment. This is an issue that continues to be brought before the VA, HUD Appropriations Subcommittee which funds Environmental Protection Agency.

And I have just left a hearing across the hall where the principal witness is Dr. Ken Olden, the Director of the National Institute for Environmental Health Sciences. And I posed the same question to him.

He, of course, is very much aware of the push along these lines. And he seemed to indicate that there is a need for science but there is also a need for some institute or some agency to look at ecological issues.

But I think the thrust of his answer was that he felt that while since we have in place the National Institute of

Environmental Health Sciences, that the issue of ecological issues would probably fall within the category of both the EPA and the Health and Human Services Agency. He sort of left it there in terms of whether those two agencies feel that they can fulfill the need with reference to these other issues.

I was just asking if, in your professional judgment, you can comment on that issue?

Ms. Browner. This has been a point of discussion for many years now, as you said. I think there were several reasons why this proposal originally arose, and I know this from people engaged in the discussions at the time. I was not a party to them. I was not in this position.

But I think it was both the ecological research question that you just posed and also the sense in the academic community that they had no source of funding for research on environmental issues, that was really analogous to the funding that exists for the biomedical community.

Since I came to EPA, we have worked hard to address both of those. One, we have worked to broaden our ecological research; and, two, through programs which this committee has supported, such as the STAR program, we have worked to engage with the scientific community outside of the agency.

At this point in time, I do not know what benefit there would be to creating another government agency. One of the challenges all scientific research faces within the government is funding. And with this institute you would just have another plate at the table. And it would be, I presume, not increasing total funding but rather dividing it up that much more with overhead and costs.

We are building a state-of-the-art facility in RTP. We are doing the very things that we need to do to maintain a cutting edge science program. At this point in time, we would not support the creation of an additional entity.

I don't think you're going to achieve anything. If there's more money, we would be more than happy to discuss additional funding.

environmental justice: budget request

Mr. Stokes. I appreciate your professional judgment on it. Since the issue continues to crop up, I think that we need to ask those of you who are in a position to help us think this thing through to comment on it.

My other question has to do with the President's budget summary where he makes reference to the fact that the 1999 President's budget requests \$7.9 million in 46 work-years to support environmental justice. In 1999 the Agency will work to ensure that minority, low-income and Native American communities will be able to meaningfully participate in environmental decision-making and protect themselves from undue risk.

Now, I agree fully that this is certainly a very important issue and I would like for you to comment upon precisely what is being done in this area and also whether or not the appropriation of \$7.9 million is enough at this time for what you are doing or whether we ought to be thinking about something in addition to it.

Ms. Browner. The \$7.9 million is for Environmental Justice Activities within our ``Right-to-know'' goal. This budget funds the Office of Environmental Justice at \$6 million. If you look across the Agency there are additional activities in this area beyond the work of the office, and the total funding across the Agency is on the order of \$23 million. For example, you would have work going on in Superfund. You would have work going on in Brownfields, water, air, and in the regions.

So the \$7.9 million is for resources within one of the Agency's goals. I think this is a significant commitment to the office, but you have to add to that the other activities.

The work continues to fall into several categories, perhaps most importantly and most promising is our efforts to better engage communities who experience the consequences of decisions, whether it be the clean-up, the citing of a facility.

These are not easy issues, as you are well aware, and there have been an increasing number of efforts to use, for example, Title VI to raise questions on behalf of some of these communities about particular facilities. So our work also focuses in that area. We have a number of these cases or petitions pending, which we are in the process of reviewing.

We have an advisory council, a FACA, that is helping us understand how best to integrate the concerns of the environmental justice representatives and communities into the day-to-day work of the agency.

Mr. Stokes. Thank you very much.

Mr. Chairman, because I have to get back to this other subcommittee, I would like to just submit some additional questions for the record.

Mr. Lewis. That would be fine, Mr. Stokes.

Mr. Stokes. Thank you very much.

global climate change budget

Mr. Lewis. Thank you.

Ms. Browner, I have both a commentary and a series of questions relative to your budget that relate to world climate change and the Kyoto accords. I don't want to take the time of the Committee at this point to spend a lot of time on that subject, for we have touched on it in any number of ways, but let me say that while I know you suggest rather strongly that your world climate budget is not related to the Kyoto accords, it is difficult for me to imagine the dollars being suggested here, the increases particularly, that there wasn't some consideration.

Clearly past positions on the part of the Senate relative to such an accord, what they talk about as it relates to our economy, et cetera, it is hard to imagine that you would not have seriously been aware of Byrd-Hagel and other interests of the Senate as you look at this budget.

In view of all of that I am asking myself here, questions like why wouldn't you be shifting your priorities to other questions, like PM standards and the big debate we have there, I just don't see that piece of the budget going forward in view of where the Senate has been. We have touched on it in many ways here. I don't think we need to develop it further but I

would appreciate your responding not only to my questions but maybe we can talk about it in more depth in another venue. It is an important item.

I want you to know that I have spent a lot of time in a former life in some of these developing countries and there is not any question that if we really care about world climate circumstances, that we have to have an interaction there that is real. So I am just really chewing on it and wondering about your budget as it relates to that.

enforcement: number of cases

I would like to move then to another subject area entirely. In December of 1997 EPA issued a press release announcing that it had referred the largest number of civil and criminal enforcement cases in its history to the U.S. Department of Justice and had assessed the largest total amount of civil and criminal penalties in any one-year period in history.

More specifically, 278 criminal cases were referred and \$179.3 million in fines were assessed in fiscal year 1997, both records for the criminal enforcement program. EPA also referred another 426 civil cases, the second highest one-year total in history, and assessed \$95.1 million in civil penalties. The combined 704 referrals and \$264.5 million in fines and penalties were both the highest in the Agency's history.

I know that your enforcement people had a very busy 1997 and I sincerely want to congratulate them for their efforts and their accomplishments. According to your press communication--

Ms. Browner. This is annual. We do this once a year. We give out the numbers so everyone can see them.

Mr. Lewis. As a result of EPA enforcement, ``polluters spent a total of \$1.98 billion to correct the violations and take additional steps to protect the environment and to clean up Superfund sites. According to the data, PCB pollution was reduced by 576.5 million pounds, volatile organic compound pollution by 62.5 million pounds, particulate matter pollution by 24.5 million pounds, lead pollution by 10.2 million pounds, benzene pollution by 7.6 million pounds and asbestos pollution by 1 million pounds, among others. The agency also reduced CFCs by more than 427,000 pounds.''

Ms. Browner, are these reduction statistics just related to the civil and criminal cases mentioned at the outset or are they relative to all the enforcement efforts throughout the fiscal year?

Ms. Browner. They are relative to all of the actions throughout the year. I guess maybe I don't understand your question. You want to know if--this is the total pollution reductions when you add up---

Mr. Lewis. Not everything that you do results in a civil--
--

Ms. Browner. I am not understanding something. I apologize. Can you ask the question again so I can understand it? I am sorry.

Mr. Lewis. All right. Are all of these listed statistics just related to civil and criminal cases mentioned at the outset?

Ms. Browner. Yes. That is what I didn't understand. Yes.

This is Steve Herman, the Assistant Administrator for the Office of Enforcement and Compliance Assurance.

Mr. Herman. The figures that you read are some of the environmental impacts of the enforcement cases, given the pollutants that were reduced, one of the reforms that we instituted to try and expand understanding of what we get done in the enforcement actions. So it is not just the action; we are trying to show also the impact on the environment.

Mr. Lewis. Okay. Then moving on, many people have a notion that an EPA enforcement action always constitutes a serious citation issued by a tough environmental enforcer type. In fact, the enforcement actions are often nothing more than a surprise or even a planned inspection or visit.

In the context of your communication with the media regarding these reduction statistics, what type of enforcement actions are we talking about here?

Ms. Browner. We have a number of enforcement tools that are available to us. Some of them can be used as the product of an on-site visit where a violation is found and corrections are taken, all the way up to very large cases that we have been involved with--for example, the case with GM where you had a defeat device being installed a small stick being installed so that when climate control was turned on in Cadillacs----

Mr. Lewis. I was wondering if any of this statistical information that was developed here is as a result that is being done by local law enforcement or state agencies.

Ms. Browner. Where we cooperate with others, right.

Mr. Herman. Mr. Chairman, some of these cases involve joint action with U.S. attorneys and also with some state agencies, but they are primarily federal actions. One of the large ones in here involved an action in your state involving Diablo Canyon and I think that was highlighted.

Mr. Lewis. I guess what I am thinking out loud is that the implication is that these reductions are all a result of enforcement action.

Mr. Herman. These are all a result of enforcement actions and they are all a result of enforcement actions either administrative, civil judicial or criminal judicial, taken by the Federal government, some in cooperation with states but this does not include all of the state figures. These are the Federal enforcement----

Ms. Browner. Where a state took an independent action or--
--

Mr. Lewis. So it is not the result of some program that is in place by a self-auditing private sector entity or otherwise?

Ms. Browner. No.

Mr. Herman. These are not, Mr. Chairman, although--

Ms. Browner. We did report on self-audits, also, as part of this.

Mr. Lewis. She just answered your comment.

Ms. Browner. Because I think that is a valid point, but it is not in the numbers.

Mr. Herman. She was right.

Ms. Browner. I paid him to say that.

chemical accident investigations

Mr. Lewis. Indeed. I have some detailed questions there and if you would respond for the record, I would appreciate it.

I would now like to take a few moments to discuss what appears to be a little confusion regarding jurisdictional issues and chemical accident investigations. Are you aware that the Congress, in fiscal year 1998, funded for the first time the United States Chemical Safety and Hazard Investigation Board?

Ms. Browner. Yes. I just met with the chairman, Paul Hill.

Mr. Lewis. The authority for this independent nonregulatory board is found in Section 112 of the Clean Air Act. It is clear in the statute that the board has primary if not sole responsibility to investigate and report on in a nonregulatory fashion the root cause of accidents that result in releases in the environment. Section 112 states that the Board shall investigate or cause to be investigated, determine and report to the public in writing the facts, conditions and circumstances and the cause or probable cause of any accidental release resulting in a fatality, serious injury, substantial property damages.

The statute goes on to give the Board authority to utilize the expertise and experience of other agencies and even states, in part, that the Administrator shall provide to the Board such support and facilities as may be necessary for the operation of the board.

Ms. Browner, the primary reason I am bringing this matter to all of our attention is because the Subcommittee continues to receive numerous calls from other Federal agencies, as well as from the industry, questioning whether your people are in charge of root cause investigation or the Board is in charge of root cause investigation. They are apparently confused because of what they hear from EPA people.

I am well aware that EPA has statutory responsibilities to investigate all sorts of things and I am not suggesting, at least in this forum, that those be diminished or altered, but I believe the law is abundantly clear that the Board is responsible for the root cause investigations of releases, and I would greatly appreciate it if you would likewise make that abundantly clear to your people.

Ms. Browner. Certainly, as you can appreciate, Mr. Chairman, we are engaged in a dialogue with OSHA, OMB, and the Board, as to how to proceed. On the face of it, that is a very easy explanation, but we are working through what may ultimately end in an MOU. There had been an MOU but the Board was not in place. They are getting in place. They are hiring up. They are hiring some of our people, which we think is good. Then we need to really have a detailed understanding between all of the parties of what it is they will do, when they will be out doing the investigation, and what we will do. Any guidance people want to provide as to the specifics of that is helpful.

rural water technical assistance: budget request

Mr. Lewis. Ms. Browner, I am sure that you are not surprised that EPA's elimination of funding for Rural Water Technical Assistance in the 1998 budget request causes many of

us in Congress no small amount of concern. I obviously recognize the game we often play whereby you eliminate a program knowing full well that we will likely put it back in; meanwhile, you place your resources on other priorities, so we stay within budget allocations and it is kind of a song and dance.

Because of the effectiveness and efficiency of the rural water program, because of the priority you have placed on small water system compliance, and particularly because of the additional burdens placed on small systems by the Safe Drinking Water Act of 1996, I can only conclude that your budget request, in fact, reflects that same song and dance or, if you will, the game that is played.

Ms. Browner. With all due respect, no. It is fair to say that historically the Administration did not ask for this and Congress put it in. Last year the Administration did ask for it and this year we do not ask for it.

The reason we did not ask for the full amount is because the states now have the authority to fund rural community training and technical assistance from the 2 percent set-aside in the Drinking Water Revolving Fund. So we think they have the money.

Mr. Lewis. What evidence do you have that the states will provide the funding?

Ms. Browner. How many state plans do we have now?

Mr. Perciasepe. Twenty-one states have already asked for it, \$8.5 million.

Ms. Browner. Right. So it is happening. I don't think that the end recipients are experiencing a decrease in funding.

Mr. Lewis. Okay. Let me follow up, then. Isn't it a fact that the Safe Drinking Water Act contemplates that both this nationally funded technical assistance program and the states, through the set-aside or otherwise, will fund this activity simply because of the increased burden imposed on small systems by the act? Isn't that kind of assumed?

Ms. Browner. That was the point that Congress had and the Administration had in drafting that provision and we have now been working with the states.

We all recognize that these rural systems need financial support, so we have a reliable funding mechanism for them and the states are using it. They are out there using the money that this committee appropriates in the Drinking Water SRF and setting aside a chunk for the rural communities. That is why we did it, because we think the money is there.

Mr. Lewis. They would argue that there is a significant shift of burden, not burden-sharing but burden to them. They would say the point of the law was to make sure that there is very significant federal not just support but burden-sharing.

Ms. Browner. And that is what the set-aside allows them to do. The fact that it works on a percentage state by state should allow for the states to best speak to the number of rural communities they have and any additional requirements, as opposed to the historical way, which is a sum of money that has gone to, four or five organizations. It has not in every instance gone down to the rural community, which is what the state set-aside that you all provided for in the Drinking Water Act will allow them to do.

water system operator certification

Mr. Lewis. It would appear that there is some considerable disconnect here relative to what they think is available, the way those funds can be used, and whether or not it will accomplish the objective here. I think it is really important that your people help you better evaluate whether or not this is going to happen, rather than what on the surface appears to be people giving lip service to the thought that it might happen.

Let's see. Section 123 of the Safe Drinking Water Act included new EPA guidelines for minimum standards for operator certification, water system operators for over 50,000 small water systems. The act also authorized \$30,000 in funding for small towns in order to help them comply with the new federal requirements under Section 123(d)(i).

EPA's fiscal year 1999 request includes \$31,798,000 for capacity development and operator certification. Is this funding to be used for grants to local governments to comply with the planned new operator requirements? And if not, where do you plan to spend the funds?

Ms. Browner. If I could ask Bob Perciasepe to explain that.

Mr. Perciasepe. Mr. Chairman, did you say \$30 million?

Mr. Lewis. I said \$31,798,800.

Mr. Perciasepe. Is in our budget?

Mr. Lewis. Yes, 1999 request includes \$31,798,800 for capacity development.

Mr. Perciasepe. Again the technical assistance set-aside that the Administrator mentioned earlier is set up to provide the states with the flexibility to both work with the rural water associations, the other associations and themselves to set up a technical assistance process at each state. If you take the billion dollars that is in the SRF and you look at the trend that we have seen from the 21 states that are already in, we are going to push about \$20 million in addition out there that the states will be having for doing technical assistance.

We also have to come up with the guidelines so that when grants through the SRF are awarded to small communities, that the states have guidelines to use to determine whether or not those are sound investments of Federal funds. It is not a mandatory approach on how the states would evaluate that.

So yes, some of the \$30 million would end up going toward the states in terms of their----

Mr. Lewis. I guess my question really----

Mr. Perciasepe. We can answer the details for the record on how that works.

Mr. Lewis. I would like to know as much as you can right now. Is this funding to be used for grants to local government to comply with planned new operation requirements? If not, if not all of the \$31,798,800, how and where do you plan to use the money otherwise?

Mr. Perciasepe. I am sorry that I do not know--I could probably figure this out before I leave here--what the breakdown of that \$31 million is.

Mr. Lewis. Well, if it is a significant piece of the \$30 million that would go to something else, then do sit down and

figure it out and let me know before we leave here, okay?

Mr. Perciasepe. Okay, can do.

Mr. Lewis. Good.

[The information follows:]

[Page 229--The official Committee record contains additional material here.]

Mr. DeLay, you have been around for a while. I am going to get to Mr. Frelinghuysen in a while, too, and we have to get moving on. We are going to call on you first.

clean water: ``fishable'' and ``swimmable'' waterways

Mr. DeLay. Thank you. I just have maybe five or ten minutes, Mr. Chairman, to finish up my questions.

I want to move to clean water. I do understand that our rivers and lakes, in certain cases, do have problems that we need to address. What I do not understand is your clean water action plan, and particularly some of the data that you state in that plan.

On February 19 of this year the President announced the Administration's Clean Water Action Plan and the goal of that plan is fishable and swimmable waters, in his words, for all Americans. How does the Agency define fishable and swimmable?

Ms. Browner. That is actually the goal of the Clean Water Act that the President was referencing. It has been the goal for 25 years. It is in the original Clean Water Act and there is a whole analysis that is done by states to evaluate their surface waters to determine whether or not they meet a set of standards that have been set, and the result is the fishable and swimmable designation. We would be more than happy to provide that list to you.

Perhaps the easiest way, is to reference to the statute. Section 101 of the Clean Water Act sets out the definition.

Mr. DeLay. Okay. Well, in order to achieve the goal of fishable and swimmable, the Administration is proposing in your budget \$568 million in new spending.

Ms. Browner. Not in EPA's budget. That is an Administration-wide proposal. The EPA portion of that is \$145 million, of which \$120 million would go to the states.

Mr. DeLay. But it is total government.

Ms. Browner. That is correct.

Mr. DeLay. And your Administration wants \$568 million, which is a 35 percent increase over what you are presently spending, the way we calculate it.

Now, the supposed reason for this federal largesse is that the President stated, and I quote, in his address, ``Forty percent of our nation's waters are still too polluted for fishing and swimming. That is unacceptable.''

Is the President's statement correct?

Ms. Browner. Yes.

Mr. DeLay. Well, what is the source of the data for his 40 percent?

clean water: 305(b) report

Ms. Browner. A lot of it comes from the states. The states actually make determinations. They provide those determinations to us.

Mr. DeLay. Well, wouldn't that be the 305(b) report?

Ms. Browner. That is one source of information. There are other sources of information.

The 305(b) report does not cover every surface water, every river and lake. I think there is another reporting system under 303(d).

Mr. DeLay. Neither do the assessments by the states cover every lake or every water.

Ms. Browner. Correct. We agree.

Mr. DeLay. Then how do you explain the discrepancy with the 1996 EPA publication ``Environmental Indicators of Water Quality,' ' which shows 95 percent of the rivers are fishable? The figures just don't match. Who is telling the President what to say when he makes these kinds of statements? Do you believe that 305(b) data overstates the problem?

Ms. Browner. 305(b) data overstates the problem or understates the problem?

Mr. DeLay. Who told the President of the United States that 40 percent of our rivers and streams are unfishable and unswimmable?

Ms. Browner. Still do not meet fishable and swimmable standards? I am sure it was a combination of EPA, our Water Office, the reports we get from the states, our own analysis and the Council on Environmental Quality.

Mr. DeLay. So you stand by that figure?

Ms. Browner. Yes.

Mr. Lewis. And those 2,500 scientists.

Ms. Browner. Well, they do climate change----

Mr. DeLay. The gynecologists and others in that 2,500, and Chinese medicine.

Ms. Browner. No, we use no Chinese medicine. I promise.

Mr. DeLay. The point is that when you have these two reports, one report says 95 percent of the water is fishable and yet the President of the United States and in your own testimony you are saying 40 percent of the waters are not.

Ms. Browner. We would be more than happy to provide you for the record the various databases that are relied on in reaching that conclusion.

Mr. DeLay. How do you explain that kind of discrepancy?

Ms. Browner. As I said, we will be more than happy to provide you for the record all of the various analyses and studies that are relied on.

[The information follows:]

Data on Lakes and Rivers That Are Not ``Fishable or Swimmable''

The 305(b) Report is the primary vehicle EPA uses to inform Congress and the public about water quality conditions in the United States. The Report is based on data submitted by States, Tribes, and other jurisdictions that evaluate whether water bodies are clean enough to support basic, or ``designated,' ' uses such as swimming, drinking, and fishing. The uses are

based on each jurisdiction's water quality standards that are used to protect their waters. Different jurisdictions utilize different designated uses.

A primary conclusion of the Report is that about 40% of the Nation's surveyed rivers, lakes, and estuaries are too polluted for These basic, designated uses. It should be noted that in compiling this data, the jurisdictions have surveyed only a portion of the water bodies within their boundaries--17% of river miles, 42% of lake acres, and 78% of estuarine waters. Of this universe of water bodies, approximately 40% of the surveyed rivers, lakes, and streams do not meet one or more of their designated uses, meaning they only partially support the use or they do not support the use. These uses include support of aquatic life, fish consumption, drinking water supply, agriculture, primary water contact (such as swimming), and secondary water contact (such as boating).

While the overall analysis of state assessments across water body types and across designated uses shows approximately 40% impairment of designated uses, statistics for individual water body types and designated uses can and do vary widely. For example, the Report shows that 95% of the rivers support the fish consumption designated use. This figure is based on data showing that 94% of the surveyed rivers and streams fully support fish consumption and an additional 1% of the surveyed waters fully support fish consumption but the waters are potentially threatened for this use. This 95% figure is in line with the information contained in the 1996 publication, ``Environmental Indicators of Water Quality.''

Mr. DeLay. Well, the analysis that we made, only a fraction, a small fraction of the rivers are assessed in the water quality inventory.

Ms. Browner. We agree with that.

Mr. DeLay. And those that are assessed represent the worst pollution problems because the states want the money.

Ms. Browner. That may be accurate in some instances. It may not be completely accurate.

Mr. DeLay. The report specifically states that the 305(b) data used might not represent certain conditions in the nation's water because the states and the tribes and all the other jurisdictions often focus on major perennial rivers and estuaries and public lakes with suspected pollution problems in order to direct the scarce resources to those areas.

As an example, do you believe that there are no fishable rivers and streams in Washington State?

Ms. Browner. We will be more than happy to provide you with it on a state by state basis. If you would like, on page 75 of the President's plan there is a summary list of the various reporting and analysis that is relied on in evaluating water quality in the country: 305(b), 303(d), Section 319, the drinking water watersheds. The list goes on and on.

[The information follows:]

Mr. DeLay. Well, based on that survey, you, in a letter to the Speaker----

Mr. Lewis. Excuse me. Let me interrupt you.

Mr. DeLay. I only have about two minutes.

Mr. Lewis. But we only have about five minutes before we have to go vote and Mr. Frelinghuysen hasn't had a moment. That is my concern.

Mr. DeLay. Let me just finish this. It will take me a minute.

Mr. Lewis. Okay.

Mr. DeLay. And I won't be argumentative.

Ms. Browner. Nor will I.

Mr. DeLay. But in your letter you yourself stated that based on surveys conducted by the states, about 40 percent of the nation's surveyed rivers, lakes and estuaries are too polluted for such basic uses as fishing and swimming.

Ms. Browner. Yes, we stand by that statement.

Mr. Lewis. Mr. Frelinghuysen.

emission standards: large vehicles and trains

Mr. Frelinghuysen. Thank you, Mr. Chairman.

I continue to hear, Madam Administrator, from my constituents about emissions requirements imposed on vehicle owners. I would like to find out from you what emissions reductions standards are imposed on large trucks, buses and trains under the Clean Air Act and where we are in compliance.

The public perception is that passenger cars are complying but these other vehicles, particularly diesel operations, are just going totally amuck. Could you comment on what we are doing?

Ms. Browner. We have been working with various industry sectors on what we refer to as the large engines, the diesel engines. For example, we worked with the Chairman's state on large locomotive engines, and we just adopted a final set of standards for large locomotive engines. Those will be for the ones that obviously are constructed in the future.

We also have an effort under way on diesel truck engines. We have a whole series of proposals.

Mr. Frelinghuysen. Why are we waiting?

Ms. Browner. We are not waiting. We are moving through the process. We are setting the standards. We are getting the requirements in place.

And it is important to understand something. It is not as if there weren't requirements out there. We are building on top of a set of requirements. I assure you, you could check with the trucking industry and they would tell you we are requiring a lot of them.

Mr. Frelinghuysen. The public view is obviously that they pay a price. Some states have a great obligation on the emissions, like my state does, but the public perception is that the most visible thing are buses and diesel vehicles.

Ms. Browner. We also reached an agreement with the bus engine manufacturers.

Mr. Frelinghuysen, two quick points here. One is I understand that public perception. I hear it all the time. It

is not necessarily----

Mr. Lewis. You are not alone.

Ms. Browner. Right. And I understand why people have that feeling. We have a very aggressive program.

Mr. Frelinghuysen. Even if they were to be pulled over----

Ms. Browner. We have a very aggressive program focused on large engines.

Number two, in looking at what states may be required to do state by state, additional steps they may be required to take for pollution reductions, the models factor in the agreements and the requirements placed on the large engine manufacturers. So you get the benefit within the models of the work we are doing nationally to develop cleaner engines.

The final thing I would say, and your state was instrumental in this, beginning in August of this year, if you buy a new car it will be 70 percent cleaner. The tailpipe emissions will be 70 percent cleaner and the automobile manufacturers have said that that will be at a cost of less than \$100 per car. So we are working across all fronts.

total maximum daily load (tmdl) litigation

Mr. Frelinghuysen. Good. I just wondered if you would give a very brief reaction to the article in the New York Times on Sunday, March 1, the headline being ``courts expanding effort to battle water pollution, new enforcement tactics; environmental groups suing by employing little-used provision in the 1972 law.''

You are quoted in there as saying in an interview, and I hope this is accurate, that the new approach is becoming the cornerstone of how you deal with a polluted watershed, watershed by watershed, and it is the President's Clean Action Plan.

I know the direction in which you are going but it isn't the Administration's plan to promote more litigation?

Ms. Browner. That is not what I was saying.

Mr. Frelinghuysen. I wondered if you would clear that up because quite honestly, I think the objectives are obviously something we need but you are not, in fact, encouraging more litigation.

Ms. Browner. Absolutely not. We don't enjoy being sued. I don't enjoy being sued.

But the point of the TMDL issue, the total maximum daily load, it is a way for communities and states, and I think there was a great amount of foresight when this was provided for in the law, to work on a watershed by watershed basis. This is really the forerunner of the watershed approach, which is now adopted in this plan. That is all I was saying.

Mr. Frelinghuysen. I commend a lot of good things that are occurring in my state and more should occur. But in reality, the public perception from reading this article is that the way we are going to promote the environment is to engage in more litigation. And I would like to know for the record how much litigation you are actually involved in.

Ms. Browner. This is not our litigation. We are being sued.

Mr. Frelinghuysen. You are being sued. I would like to know for the record how many lawsuits----

Ms. Browner. How many cases we have pending against us?

Mr. Frelinghuysen. Yes. And I would like to know the monetary cost of some of that.

Ms. Browner. The TMDL lawsuits, apparently we have about 24 now pending against EPA.

Just so you understand, what happens is the parties, frequently environmental groups, sue EPA to get us to get the states to do what the Clean Water Act required of them, and then we work closely with the states to come to an agreement on a schedule whereby they will undertake what the law required, which is really, as I said, watershed planning.

Mr. Frelinghuysen. Thank you, Mr. Chairman.

Mr. Lewis. Speaking of TMDL, we are getting very close here.

Ms. Browner, we are drawing our hearing for this to a close, TMDL, as it were. The Committee, as Mr. Stokes expressed but others, as well, have a number of questions for the record we would appreciate your focussing on.

As you may or may not know, I fly every other weekend to California by way of Dallas and Ontario Airport and there are a lot of problems that relate to airports that I am interested in specifically, so I am interested as it relates to toxic release inventory, duplicatory regulations that might be impacting that area of industry. And I hope that EPA is working very closely with appropriate agencies like FAA and so on.

Ms. Browner. Yes, we are.

Mr. Lewis. We have a number of other questions that cover the board here. We do appreciate these last two days together. I know that it has just been a delight for you and all of yours.

Ms. Browner. It has been wonderful.

Mr. Lewis. In the meantime, the Committee will stand adjourned until tomorrow morning at 8:30, March 12, where we will spend some time with Administrator Goldin and I am sure he will find that delightful, as well. Thank you.

[Pages 238 - 1067--The official Committee record contains additional material here.]

I N D E X

African-American SES at EPA.....	114
Air Quality Standards: Inhofe Amendment.....	66
Animal Feed Lot Operations.....	128
Animal Feeding Operations: Regulatory Oversight.....	45
Animal Feeding Operations: Federal and State Roles.....	62
Bay City Supercomputer Move: Cost Savings.....	39
Bay City: Timeline, Cost Savings.....	40
Brownfields.....	122
Brownfields.....	169
Brownfields: EPA/HUD Partnerships.....	171
Brownfields: PPAs.....	137
Brownfields: Prospective Purchaser Agreements.....	65
Brownfields: Showcase Communities.....	183
Brownfields: Windwood Project.....	211
Budget Summary Chart.....	110
CAFE Program.....	126
Carbon Dioxide Emissions.....	168
Carbon Dioxide: Legal Authority to Regulate.....	201
Carbon Dioxide: Pre-Decisional Nature of Memo.....	198
Carbon Dioxide Emissions: Regulatory Authority.....	196
Carbon Dioxide Emissions: Internal Memo.....	197
Center for Environmental Information and Statistics.....	167
Chairman's Opening Remarks.....	1
Chemical Accident Investigations.....	225
Children's Health Centers.....	169
Clean Water: ``Fishable'' and ``Swimmable'' Waterways.....	230
Clean Water State Revolving Fund.....	59
Clean Water: 305(b) Report.....	230
Clean Water Action Plan (CWAP).....	31
Coal Plant Use in the Midwest.....	136
Construction Grants Close-Out.....	24
Contaminated Sediment Reclamation/Reuse.....	184
Critical Infrastructure Protection: President's Commission.....	116
CWAP: Grants to States.....	32
Danis-Clarko Landfill.....	41
Data Management Funding.....	181
Data on Lakes and Rivers that are not ``Fishable or Swimmable''..	231
Deep Injection Wells.....	122
Dredged Material Reuse.....	61
Effluent Guidelines: Textile Services Industry.....	217
Electricity Industry Restructuring.....	207
Emission Standards: Large Vehicles and Trains.....	235
Enforcement: Number of Cases.....	223
Enterprise for the Environment.....	50
Environmental Justice: Budget Request.....	222
Environmental Monitoring for Public Access and Community Tracking (EMPACT).....	51
EPA 1999 Annual Plan.....	517
Everglades Restoration.....	38
Florida Alternative Water Sources.....	34
Food Quality Protection Act (FQPA).....	129
Food Quality Protection Act (FQPA).....	51
FQPA and SDWA Amendments: Bipartisan Support.....	52
FQPA Implementation: Minor Use Pesticides.....	120
FQPA: Organophosphates and Carbonates.....	167
FQPA: Review Time.....	134
FQPA: Review Process.....	135

Global Climate Change Budget.....	223
Global Warming.....	54
Goal-Based Budgeting.....	51
Grand Canyon Visibility Transportation Commission.....	195
Hazardous Substance Research Centers.....	185
Historically Black Colleges and Universities (HBCU) Participation in STAR.....	113
IG Letter: Ten Management Problems.....	10
IG Letter: EPA's Top Ten Management Problems.....	12
Information Systems: Budget Request.....	181
Information Systems: Security.....	47
Information Systems: Public Information.....	179
Information Systems: Security.....	49
International Programs: Developing Countries.....	208
Kyoto Treaty.....	55
Kyoto Treaty Ratification.....	59
Lead-Based Paint.....	53
Methyl Bromide.....	185
Methyl Bromide: Research on Alternatives.....	185
Minority Business.....	174
Minority Employment at EPA.....	174
National Institute for the Environment.....	221
NOx Emissions: Petition by Northeastern States.....	119
NOx Emissions Reduction: Alternative Proposal.....	41
NPS: Abandoned Mine Reclamation Fund.....	33
NPS Grants: State Match.....	32
Nuclear Power.....	126
Onondage Lake: Municipal Compliance.....	121
Open Source Information: Access to Data.....	116
Opening Remarks by Mr. Stokes.....	2
OTAG Process.....	68
Ozone Pollution Dispersion.....	68
Ozone Standard: Implementation Schedule.....	213
Ozone Transport Assessment Group (OTAG).....	67
Partnership for a New Generation of Vehicles.....	126
Performance Partnership Agreements.....	165
Pesticide Products Review.....	131
Pfiesteria.....	128
PM 2.5 Monitors.....	189
PM Monitors: State Cost Share.....	165
PM Monitors: Class 1 Area Monitors in Place.....	190
PM Research Program.....	124
PM Research: Funding Breakout.....	125
Post-Doctoral Research: Participation by African-Americans.....	113
POTW: Pre-Treatment Authority.....	218
Priority-Setting.....	55
Prospective Purchase Agreements and Comfort Letters.....	139
Pulmonary Hemorrhage.....	30
Questions Submitted for the Record by Congressman Skeen.....	507
Questions Submitted for the Record by Congressman Lewis.....	238
Questions Submitted for the Record by Congressman Price.....	502
Questions Submitted for the Record by Congressman Delay.....	319
Questions Submitted for the Record by Congresswoman Meek.....	500
Questions Submitted for the Record by Congressman Knollenberg....	462
Questions Submitted for the Record by Congressman Hobson.....	457
Questions Submitted for the Record by Congressman Frelinghuysen..	465
Questions Submitted for the Record by Congressman Wicker.....	1043

Reclamation/Reuse Projects: Florida.....	35
Regional Haze: Implementation Plan.....	187
Reinventing Environmental Information Program.....	178
Reporting Requirements: Paperwork Burden.....	176
Research Triangle Park (RTP) Construction Status.....	38
RMP Rule: OMB Guidance.....	117
RMP Rule: Data Management Alternatives.....	118
Rural Water Technical Assistance: Budget Request.....	226
Salton Sea.....	175
Sector Facility Indexing Program.....	178
Sensitive Data: Other Federal Agencies.....	118
SES Positions by Race.....	175
SIP Process.....	109
SIP Requirements: Northeastern States Compliance.....	69
State by State Listing of ``Fishable or Swimmable'' Waters.....	233
State Revolving Funds.....	182
Status of Ozone SIP Requirements.....	71
Superfund: Cleanup Delays.....	30
Superfund: Dollars Available.....	28
Superfund: Funds Spent for Cleanup.....	64
Superfund: Funds Spent to Date.....	63
Superfund: Impact of Failure to Reauthorize.....	28
Superfund: New Jersey Sites.....	63
Superfund: Reauthorization.....	27
Superfund: Reauthorization.....	64
Technical Assistance Grants: \$31 Million Breakout.....	229
Total Maximum Daily Load (TMDL) Litigation.....	236
Toxic Release Inventory (TRI) Program.....	178
Trust Funds.....	113
Visual Anti-Tampering Vehicle Emissions Test.....	41
Wastewater: Class I Wells.....	212
Water Programs at EPA.....	38
Water System Operator Certification.....	227
Written Testimony of Administrator Browner.....	6
Year 2000 Computer System Compliance.....	24